

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs. NO: CR-15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 10

9 Transcript of Jury Trial before The Honorable  
10 James O. Browning, United States District Judge, Las  
11 Cruces, Dona Ana County, New Mexico, commencing on  
12 February 9, 2018.

13 For the Plaintiff: Ms. Maria Armijo, Mr. Randy  
14 Castellano, Mr Matthew Beck

15 For the Trial 1 Defendants: Ms. Amy Jacks, Mr.  
16 Richard Jewkes, Ms. Theresa Duncan, Mr. Marc Lowry,  
17 Ms. Carey Bhalla, Mr. Bill Maynard, Mr. Ryan Villa,  
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1 THE COURT: All, right. Good morning,  
2 everyone. I appreciate everybody being here and  
3 ready to go on time. I'll see if y'all have  
4 anything you need to talk to the Court about, but  
5 let me comment a little bit on what Mr. Maynard  
6 brought up at the very end of the day.

7 I haven't been through everything, but I  
8 did get through a fair amount, and I'm inclined not  
9 to sustain any 401, 402, 403 objections to it. I  
10 also wasn't persuaded by the Government hadn't  
11 redacted enough arguments.

12 I think there is a narrative here. I  
13 think we got a good preview of what the narrative is  
14 going to be from Mr. Lowry during January and  
15 December, and how you're going to attack these  
16 tapes. And if I start chopping them down and then  
17 y'all argue the way Mr. Lowry did about the tapes,  
18 then it's not going to be fair to the Government. I  
19 think there is a narrative here. We've got to put  
20 them in context.

21 I thought the Government did a good job of  
22 at least the materials I've seen taking care of the  
23 Bruton issues. I thought the formatting was fine,  
24 so they showed us the redacted portions, and then  
25 they also showed us how it's going to go to the

1 jury. I thought those were fine. It didn't  
2 indicate what was redacted.

3 I may look a little closer at some of the  
4 individual objections to see if there is anything  
5 that troubles me. But overall, I thought the  
6 Government was pretty good with their word about  
7 what they were going to do with this material, and  
8 so I'm not inclined to sustain a lot of the  
9 objections. I really didn't see any that I was  
10 sustaining from what I reviewed last night.

11 MS. BHALLA: May I be heard briefly on  
12 that issue?

13 THE COURT: You may.

14 MS. BHALLA: Thank you, Your Honor. If  
15 the Court -- given the Court's ruling, I think the  
16 question I have for the Court is that depending on  
17 the statements the Government intends to elicit, I  
18 think that we should be able to also submit the  
19 other statements that were made to impeach the  
20 witnesses' statements on the stand about what our  
21 client's said. And I think that it's impeachment,  
22 and I don't think it's being necessarily offered for  
23 the truth of the matter asserted. And in that  
24 particular instance, I don't think that there should  
25 be a bright-line rule that we can't elicit our own

1 clients' statements when the Government is bringing  
2 out statements of our clients and things. So I  
3 think that we have a right to present a defense, and  
4 that right -- and it's a constitutional right -- and  
5 I think that that right includes letting us question  
6 about other statements that were made within the  
7 context of the recordings.

8 THE COURT: I looked at the ones that I  
9 could tell were about completeness, and I didn't --  
10 I wasn't persuaded of those that I could see from  
11 the objections. If you want to make another run at  
12 some particular ones that you think the Government  
13 is cutting out that go to completeness, I'll take a  
14 look at it. I don't agree that just because the  
15 Government brings out a statement, you get to bring  
16 out a statement of your client. I just don't think  
17 the rules of evidence work that way.

18 MS. BHALLA: It depends on the statement,  
19 Your Honor.

20 THE COURT: I don't disagree. If you want  
21 to be specific and say, "Okay, this one we need for  
22 completeness" -- but that's probably the only thing  
23 I'm going to go with, because -- and the Tenth  
24 Circuit has been more liberal on completeness. You  
25 know, some jurisdictions, and I think the rule

1     itself, just limits it to writing, but I think Judge  
2     O'Brien has an opinion that suggests it goes to oral  
3     statements, as well.

4                 So I will do what the Tenth tells me to  
5     do, but I'm probably not going to do it on  
6     constitutional grounds.

7                 MS. BHALLA: Okay. And I think maybe the  
8     Court might be misunderstanding me. And I'm not  
9     talking about necessarily with just, straight up,  
10    the redactions. I'm talking about when the  
11    witnesses are on the stand. So if, you know, Billy  
12    Cordova gets on the stand and testifies, you know,  
13    "Carlos Herrera confessed to the murder, and he  
14    confessed to me on tape and I have it," and there  
15    are also statements on the recording where Carlos  
16    Herrera says "I have nothing to do with it" -- I  
17    think if he says that, I get to impeach with that.

18                THE COURT: I don't think you do. I think  
19    the law is crystal-clear. I've written on it  
20    repeatedly and you can look at Salzberg. It just  
21    doesn't come in. He's got to take the stand. When  
22    he takes the stand, then he gets to do those sort of  
23    things.

24                MS. BHALLA: I want to put on the record,  
25    Your Honor, that we are joining in Ms. Fox-Young's

1 and Mr. Villa's motions on the right to present a  
2 defense, and we believe that our clients have the  
3 right to impeach with that evidence, and that just  
4 because it's our client's statement doesn't make it  
5 inadmissible when you're using it for impeachment  
6 and when you're using it for the rule of  
7 completeness.

8 Thank you, Your Honor.

9 THE COURT: But I do think in that  
10 situation you would be trying to get it in for the  
11 truth of the matter. You want the jury to hear that  
12 Mr. Herrera is denying participation in that.

13 MS. BHALLA: I think it depends on how he  
14 answers the questions, if that's fair. I mean, I  
15 think if we ask the witness, "Isn't it true that he  
16 also told you he had nothing do with it," and he  
17 says, "No," I think we get to go there.

18 THE COURT: Yeah, but I don't think you  
19 better be asking that sort of question if we know  
20 the answer is going to be yes. So you just can't  
21 elicit your own client's out-of-court statement.  
22 The question would be objectionable. I wouldn't let  
23 the witness answer it. So you're not going to get  
24 to impeach him with it.

25 MS. BHALLA: I understand the Court's

1 ruling. I'm just putting it on the record.

2 THE COURT: I understand.

3 MS. BHALLA: Thank you.

4 THE COURT: You bet.

5 I might mention, as far as Mr. Villa's and  
6 Ms. Fox-Young's motion, I think we have done a good  
7 job -- I certainly feel like, as an observer here,  
8 the jury has been able to figure out Mr. Perez'  
9 defense. His defense is that, you know, he was  
10 afraid. And I guess what I understand his defense  
11 to be is that the walker was sitting there and Mr.  
12 Rodriguez took it; but he didn't, like, hand it to  
13 him. I guess that's the defense. And I think he's  
14 getting to put on his defense. He just doesn't get  
15 to have every piece of evidence come in under the  
16 rules of evidence.

17 MS. BHALLA: All right. I guess for Mr.  
18 Herrera, I don't feel that we're going to be able to  
19 get in our defense when Mr. Cordova takes the stand  
20 and when Mr. Archuleta takes the stand. And  
21 depending on what he testifies to, we're not allowed  
22 to bring in contradictory evidence that that witness  
23 is testifying to.

24 THE COURT: Well, that's tough. I  
25 certainly understand your predicament. And I'm all



1 open to being educated on this, but I've been here  
2 before and it's just a tough situation if he doesn't  
3 take the stand. I understand the situation.

4 MS. BHALLA: Okay, Your Honor. Thank you.

5 THE COURT: Thank you, Ms. Bhalla.

6 MR. VILLA: Your Honor, I just wanted to  
7 briefly respond to one comment you made.

8 THE COURT: Okay.

9 MR. VILLA: You said you want these  
10 statements in for their truth. You commented that  
11 we would want these statements in for the truth, and  
12 if it's for impeachment purpose, as we've argued  
13 under 806, they're not in for the truth. And the  
14 Court can give a limiting instruction if the  
15 Government wants one, and if there isn't any other  
16 evidence of whatever is said in those statements,  
17 we're certainly not permitted to argue in closing to  
18 the jury that those statements are to be taken for  
19 the truth but rather just for impeachment. And I  
20 think that's the limitation, if the Court admits  
21 certain statements under 806, that we're stuck with.

22 THE COURT: You're talking about the one  
23 to Mulholland (sic)?

24 MR. VILLA: Yes.

25 THE COURT: It seems to me that the only

1 way you get to impeach any witness there is to have  
2 him answer that question in the first place.

3 MR. VILLA: Mr. Mulheron.

4 THE COURT: Yeah. Or any other officer  
5 that Mr. Perez made a statement to. And so it seems  
6 to me that if you never get the question, you don't  
7 allow him to answer the question, you never get to  
8 the impeachment. That's the reason that I think the  
9 first thing, the first evidence comes in for the  
10 truth of the matter, and that's the one that's  
11 objectionable. See what I'm saying? You elicit the  
12 statement: Did Mr. Perez tell you that he was  
13 afraid, that is for the truth of the matter. And  
14 then if he says no, then you impeach, I understand.  
15 But you never get there because you can't get over  
16 the first, is my problem.

17 MR. VILLA: I think what we're saying is,  
18 when Agent Palomares testified that Mr. Perez says,  
19 "It came up missing while I was in the shower," Mr.  
20 Perez has now become a declarant under 806, because  
21 it includes 801 and we're entitled to impeach that  
22 statement as I read those Seventh Circuit and First  
23 Circuit cases and the discussion of the Senate  
24 report, that the party opponent's statement is  
25 always subject to attack and we can then impeach it

1 with any other statement that the party opponent has  
2 made.

3 THE COURT: I understand. I understand.  
4 And I read your brief and I reread your brief on  
5 that issue.

6 I mention this to the Government: Y'all  
7 may not want to bring Mr. Palomares back up here and  
8 make a record outside the presence of the jury as to  
9 what he knows. But even if you don't want to do  
10 that, you might want to throw an affidavit in the  
11 file, him saying, "I didn't know anything about it."

12 I think it was there. I haven't gone back  
13 and checked the record, but for it to be clear, you  
14 might want to throw it in. It's not going to be  
15 subject to cross-examination.

16 MR. CASTELLANO: The defense asked him if  
17 he knew of any threats, and his answer was no.

18 THE COURT: I thought he did, but just for  
19 completeness.

20 Can I go ahead and bring the witness in?

21 MR. CASTELLANO: Actually, I would say no,  
22 because I have two questions or two issues for the  
23 Court before the witness comes in. The first is:  
24 This is one of the witnesses with the videotape from  
25 the Department of Corrections.

1 THE COURT: Mr. Armenta?

2 MR. CASTELLANO: Yes. He's one of those  
3 witnesses who violated the rules of contact. So I'd  
4 ask the Court to listen to the testimony before  
5 that's played. The Court knows our objection.

6 THE COURT: Okay.

7 MR. CASTELLANO: The other is that I'm  
8 going to ask the Court to -- well, ask that the  
9 Court order the defense to only impeach by prior  
10 conviction with this witness, not with the facts  
11 behind each of these. The trafficking offenses are  
12 included, but the most important is: He has a  
13 conviction for contributing to the delinquency of a  
14 minor. That was initially a charge of criminal  
15 sexual contact of a minor. So it would be improper  
16 impeachment for them to go behind the facts of that  
17 conviction. We haven't been objecting a lot because  
18 they've been helping us by bringing in more  
19 racketeering acts, so we've been letting those go.  
20 But in this case, we're going to object to any  
21 impeachment beyond the fact of the conviction.

22 THE COURT: The fact of the conviction  
23 they can get in, and this would be classic  
24 impeachment for credibility with the felony rules so  
25 they can bring in the fact that he was convicted,

1 that it is a felony, and just a brief what the  
2 felony was; correct?

3 MR. CASTELLANO: I agree that's all fair,  
4 but not the facts behind. So the conviction will be  
5 contributing to the delinquency of a minor.

6 THE COURT: Okay. Probably I'll impose  
7 those -- these that don't go to sort of  
8 racketeering. The other ones I think are fair game,  
9 and y'all can get in the facts as we've been doing.  
10 But probably on these, you'll just get to impeach  
11 him in the normal way. All right.

12 MS. ARMIJO: At break, can we discuss with  
13 the Marshal Service the issue with the tablets?

14 THE COURT: Is it any problem for Mr.  
15 Armenta to be here for the tablets? Why don't you  
16 go ahead and put on the record, Deputy, what you  
17 wanted to put on and then ask questions.

18 I think the deputy had some -- he had  
19 questions, so maybe he can go ahead and ask those  
20 right now.

21 MR. MICKENDROW: Your Honor, Deputy  
22 Mickendrow for the Marshal Service. We have located  
23 Robert Martinez' tablet. It was up in our  
24 Albuquerque office the whole time. Just due to the  
25 number of personnel changes that the Marshal Service

1 has had lately, it was set aside and forgotten  
2 about. There was nothing done with it.

3 I am unclear as to what tablets the Court  
4 wants the Marshal Service to turn over. If I could  
5 get a specific listing on the record, I'd appreciate  
6 that. I definitely don't want to turn over any  
7 tablet that isn't supposed to be turned over.

8 THE COURT: I know I made some orders on  
9 this, but I am not real precise in my mind what  
10 needs to be turned over.

11 I'll start with you.

12 MS. ARMIJO: Your Honor, Robert Martinez  
13 is the one we discussed yesterday which the Court  
14 had indicated that it was okay with the United  
15 States first having Corrections look at it, because  
16 I don't believe that that tablet has been  
17 compromised.

18 THE COURT: Okay.

19 MS. ARMIJO: And he has been looking for  
20 his tablet for the last several weeks.

21 THE COURT: So turn that one over to the  
22 FBI as soon as possible. They're going to look at  
23 it very quickly? It is the FBI; right?

24 MS. ARMIJO: Yes. FBI will work with  
25 Corrections to get that examined.

1 MR. MICKENDROW: I will have this  
2 overnighted here by Monday.

3 THE COURT: There is one that is going to  
4 go directly to the expert for Mr. Lowry who is going  
5 to examine it. What's that one?

6 MR. LOWRY: That one is Timothy Martinez,  
7 I believe, Your Honor.

8 THE COURT: Will you give the deputy the  
9 address?

10 MR. LOWRY: I emailed.

11 MR. MICKENDROW: So it's only the one  
12 tablet that I'm turning over to defense; correct?

13 MR. LOWRY: Correct. We didn't -- the  
14 review was just the tablets that were compromised.

15 MS. ARMIJO: Well, that's different. You  
16 just requested Tim's. There were others that were  
17 compromised. You're just asking for Tim.

18 MR. LOWRY: I think all the others that  
19 were compromised had been sent up for review. I'm  
20 looking to Mr. Acee. He has them. We sent them for  
21 review. This is the only remaining tablet that has  
22 not been reviewed, is my understanding.

23 THE COURT: That's mine, as well. We're  
24 just down to two.

25 MR. MICKENDROW: And just to clarify, Your

1 Honor, the Marshal Service actually has three  
2 tablets right now. We have Timothy Martinez, Robert  
3 Martinez, and we have Munoz, Frederico Munoz, I  
4 believe it is.

5 MS. ARMIJO: And I believe that Frederico  
6 Munoz' may have been compromised. So that's why I'm  
7 saying there may be some miscommunication here. The  
8 FBI does not have Munoz' and did not send it up.

9 THE COURT: Do you care if it just goes --  
10 if Munoz --

11 MS. ARMIJO: No.

12 THE COURT: So send Mr. Munoz' to Mr.  
13 Lowry as well. You'll send two there and turn the  
14 other over to the FBI.

15 MR. MICKENDROW: Understood. Thank you.

16 THE COURT: Thank you. I appreciate it.

17 MR. VILLA: Your Honor, I'd like you to  
18 order the FBI, if Robert Martinez' tablet was  
19 compromised, to immediately notify us so it can be  
20 sent to the expert.

21 THE COURT: Mr. Acee is agreeing with  
22 that. So I think that's been the plan.

23 All rise.

24 (The jury entered the courtroom.)

25 THE COURT: All right. Everyone be



1 seated. Good Friday morning to everyone. I  
2 appreciate everybody being back and ready to go.  
3 And again, I appreciate the parties and the  
4 attorneys doing the same. Everybody has worked very  
5 hard to keep us on track. I think we are on track.  
6 And I appreciate everybody working with us.

7 I guess we've got a funded government, so  
8 we don't have to worry about that, although I don't  
9 think we had much to worry about here in the  
10 judiciary. But it sounded like while we were  
11 sleeping, they got it taken care of.

12 So thank you for all you've done. You've  
13 been a great bunch to work with.

14 All right. Mr. Armenta, I remind you  
15 you're still under oath.

16 Mr. Castellano, if you wish to continue  
17 your direct examination of Mr. Armenta, you may do  
18 so at this time.

19 MR. CASTELLANO: Thank you, Your Honor.

20 THE COURT: Mr. Castellano.

21 JERRY RAY ARMENTA,  
22 after having been previously duly sworn under  
23 oath, was questioned, and continued testifying  
24 as follows:  
25

1 CONTINUED DIRECT EXAMINATION

2 BY MR. CASTELLANO:

3 Q. Good morning, Mr. Armenta.

4 A. Good morning. How are you?

5 Q. I'm doing well. How are you?

6 A. Great.

7 Q. Yesterday I was going to start asking you  
8 about your entry into the SNM Gang, but I want to  
9 take a step back to when you were a member of the  
10 North Side Locos. Were you dealing drugs when you  
11 were a member of that street gang?

12 A. Yes.

13 Q. What types of drugs were you selling?

14 A. I first started selling marijuana and then  
15 it upgraded to crack cocaine.

16 Q. And any other drugs that you were selling?

17 A. No.

18 Q. Were you using drugs at that time?

19 A. Yes.

20 Q. What drugs were you using?

21 A. Marijuana first, and then eventually crack  
22 cocaine.

23 Q. And since that time, have you ever really  
24 stopped using drugs?

25 A. Crack, since 2008, when my daughter was

1 born. I've been using heroin and Suboxone off and  
2 on since then.

3 Q. I want to take you back now to this fight  
4 you told us about yesterday with you and, I believe,  
5 Mr. Armendarres. What happened as a result of that  
6 fight in terms of your position with the SNM Gang?

7 A. Well, I was accepted -- I was accepted --  
8 when I got to Santa Fe, a lot of guys that were out  
9 had already been in the SNM for a while and  
10 higher-ups. They accepted me for what I had did,  
11 for defending myself, defending Michael Armendarres,  
12 and also getting beat up, representing the gang.

13 Q. And was that 2005 in Hobbs?

14 A. Yes.

15 Q. Then you mentioned going to Santa Fe?

16 A. Yes.

17 Q. Is that where you went next after --

18 A. Yes, after the write-up, after the whole  
19 thing that -- all the validation and all that stuff  
20 that they did.

21 Q. Who recruited you into the gang?

22 A. Michael Armendarres.

23 Q. Did anyone else raise their hand for you  
24 to enter the gang?

25 A. Yes.

1 Q. Who was that?

2 A. That would be Eric Duran. I don't know  
3 their full names, but I know them as Droopy, Biaso,  
4 Nemo, and Dimas.

5 Q. What was the last name?

6 A. Dimas.

7 Q. Dimas.

8 Now, based on the fight you had where you  
9 stabbed -- you stabbed a Sureno as part of that  
10 fight; is that correct?

11 A. Yes.

12 Q. Did anyone tell you as a result of that  
13 fight that you had earned your bones?

14 A. At that moment, no.

15 Q. Eventually did somebody tell you that?

16 A. Yes.

17 Q. Who was that?

18 A. That would be James Yoakum.

19 Q. Anybody else?

20 A. They never said it directly like that, but  
21 he talked to other gang members and said, "This is  
22 what he did; this is how he did it; I think he  
23 should be admitted and accepted into the SNM Gang."

24 And three or four guys all accepted.

25 Q. Who were those people?

1           A.     That was -- okay. It was James Yoakum,  
2     Sammy Silva, Gerald Archuleta, and Speedy. His name  
3     is Fred, but I don't know his last name.

4           Q.     When you got to Santa Fe, were the pods  
5     mixed up there, or at that point were you being  
6     housed with only SNM members?

7           A.     We were all mixed up at that time.

8           Q.     I'll ask you the same question when you  
9     were in Hobbs. Did that create any tension knowing  
10    that you had potentially rival gang members living  
11    in the same pod?

12          A.     At that time I didn't know about it. Any  
13    enemies I had inherited, I didn't know about it till  
14    that day.

15          Q.     Were you pretty young in terms of the gang  
16    and the culture of this gang?

17          A.     I didn't know anything about it.

18          Q.     When you joined the gang, were you told  
19    any rules of the gang?

20          A.     You can't be a rat; you know, just regular  
21    rules that being in prison, you can't be a rat,  
22    can't have sex charges, can't be soft. If someone  
23    asks you to go to the room to fight, you go and  
24    fight. Just stuff like that.

25          Q.     What about when somebody above you orders

1 you to do something?

2 A. That I learned later, that if I was  
3 ordered to do something, I had to do it. And if I  
4 didn't do it, then I'd either get a violation or --  
5 depending on what they had me do, it would be my  
6 life or I'd get beat up, violation.

7 Q. So would a violation be something of a  
8 more minor --

9 A. Get beat up, like taking a beating from a  
10 couple of other brothers in the room.

11 Q. At some point in time did you get involved  
12 with any fights to represent the SNM, or were you  
13 ordered to fight anybody or beat anybody up?

14 A. No.

15 Q. So what year was it that you went to Santa  
16 Fe, if you recall?

17 A. It was the end of 2005, November. Yeah,  
18 November.

19 Q. About how long did you stay in prison at  
20 that point?

21 A. Till September of 2006.

22 Q. Where did you go from there?

23 A. I went to Guadalupe County for a couple of  
24 weeks. I had a detainer hold there.

25 Q. What were you being held over there for?

1 A. For a fight that I had prior to my arrest  
2 for my parole violation.

3 Q. And how was that case resolved?

4 A. I took a plea bargain for a fourth-degree  
5 felony, for aggravated battery. The result was one  
6 year of unsupervised probation and I had to pay  
7 fines, court costs, and stuff like that.

8 Q. If you were on unsupervised probation,  
9 does the Court there know that you violated only if  
10 you get in trouble again?

11 A. Yes.

12 Q. No one is watching you otherwise; correct?

13 A. No, I don't have to report to anybody. I  
14 don't have to call, nothing.

15 Q. Did you complete that probation?

16 A. Yes.

17 Q. What happened after that?

18 A. I continued living my life. I met my  
19 wife, had children, went to school for a little  
20 while. Had minor run-ins with the law every once in  
21 a while that turned out to be just a mistake.

22 Q. Let me ask you about a 2000 charge for  
23 burglary. Do you recall that charge?

24 A. 2000?

25 Q. 2007.

1 A. Oh, 2007, yes, I do.

2 Q. What happened with that charge?

3 A. I was accused of stealing from my  
4 stepfather all his Indian jewelry that he had in his  
5 van. It turns out that my little brother stole it,  
6 because my stepfather had stole from him some drugs  
7 that he had, and I had gave him a ride to go sell  
8 the stuff, because I had a car; so I gave him a ride  
9 and so I was accused of that.

10 Q. Was that one of the run-ins with the law  
11 you mentioned a second ago?

12 A. Yes.

13 Q. What happened with that charge?

14 A. That charge was dismissed. That whole  
15 case was dismissed.

16 Q. Now, you said you met your wife and  
17 started having kids. Even during that time, were  
18 you using drugs?

19 A. Occasionally.

20 Q. What were you using at that time?

21 A. Mainly cocaine.

22 Q. Did you also use heroin at that time?

23 A. A couple of times.

24 Q. In 2011 were you arrested again for a  
25 drug-trafficking charge?



1 A. Yes.

2 Q. And when was that charge finally resolved?

3 A. October of 2014.

4 Q. So when that charge was pending -- it  
5 looks like it was pending for almost three years --  
6 what were you doing during that three-year  
7 timeframe?

8 A. I was incarcerated in MDC and NMDOC.

9 Q. All right. Now, in 2013, did you  
10 eventually go back to prison at the Southern New  
11 Mexico Correctional Facility?

12 A. Yes.

13 Q. For what charge?

14 A. For contributing to the delinquency of a  
15 minor.

16 Q. How long were you sentenced on that  
17 charge?

18 A. I had two charges of them on one case, and  
19 each one was 18 months.

20 Q. And were those run consecutively for a  
21 total of three years?

22 A. Yes.

23 Q. Now, on those charges are you aware of  
24 whether you get what's called day-for-day good time?

25 A. Yeah, 50 percent.

1 Q. So in other words, if you're sentenced to  
2 three years and you get day-for-day, does that mean  
3 you have to serve 18 months if you don't have any  
4 violations or lose your good time?

5 A. Right. Any write-ups or stuff like that,  
6 misconduct.

7 Q. So is it misconduct in prison that  
8 sometimes takes away from your good time and forces  
9 you to do more time?

10 A. Yes.

11 Q. Okay. As the result of the distributing  
12 charges, where did you first go to prison?

13 A. Los Lunas.

14 Q. For what purpose?

15 A. It was for those charges.

16 Q. But I mean, why do you go to Los Lunas  
17 first, and then --

18 A. Oh, it's called RDC. It's like a  
19 classification prison. You go there and you get  
20 reviewed by classification by STIU, the psychs,  
21 medical, and they determine what level you are, how  
22 many points you got, if you're a threat, if you  
23 should be locked up, go to Level 2, Level 3, and  
24 then they ship you out from there.

25 Q. When you say they ship you off, where did

1 they ship you?

2 A. Well, I was there for about seven months,  
3 seven, eight months, and they shipped me to Southern  
4 here in Cruces.

5 Q. Now, when you go to a facility like that,  
6 are they also asking about your gang background and  
7 enemies?

8 A. Oh, yeah.

9 Q. And do members of STIU conduct interviews  
10 like that?

11 A. Yes.

12 Q. On June 21 of 2013, do you remember  
13 meeting with somebody who asked you questions about  
14 any gang affiliations you had?

15 A. Yes, I do.

16 Q. And if you recall -- if not, I can refresh  
17 your recollection with a document -- but do you  
18 recall what your answer was to "Once in a  
19 group/gang; how do you get out"? Do you remember  
20 your answer to that question?

21 A. I do not.

22 MR. CASTELLANO: May I approach the  
23 witness, Your Honor?

24 THE COURT: You may.

25

1 BY MR. CASTELLANO:

2 Q. Mr. Armenta, I'm going to have you review  
3 this document to yourself and then I'll ask you if  
4 it refreshes your recollection.

5 A. Yes.

6 Q. Having reviewed that document, does that  
7 refresh your recollection?

8 A. Yes, it does.

9 Q. What do you remember about your answer to  
10 the question: Once in a group or gang, how do you  
11 get out? What was your response?

12 A. You don't.

13 Q. Why did you say that?

14 A. Because from what I learned, what I knew  
15 at the time, that once you're in, you don't get out.  
16 There is no way of getting out.

17 Q. And typically, once STIU asks you  
18 questions like that, do you give up a lot of  
19 information to them?

20 A. At that point I wasn't, no.

21 Q. Why not?

22 A. I wasn't really wanting to give any  
23 information out.

24 Q. Why wouldn't you?

25 A. Because I was still loyal to the SNM and I

1 was still loyal to who I was, with my pride and my  
2 honor and all that.

3 Q. And you said you were there how many  
4 months?

5 A. Let's see. Seven. About seven.

6 Q. And even during this time when you were  
7 being classified, are you still getting time against  
8 your sentence?

9 A. Yes, I'm getting time, yes. It's adding;  
10 it's counting.

11 Q. Where do you go after being classified in  
12 Los Lunas?

13 A. Depends on your classification level. If  
14 you're step 3, you go to a medium. If you're step  
15 4, you go to Cruces; 5 and 6, you go to Santa Fe.

16 Q. Where did they tell you you were going?

17 A. To a Level 4.

18 Q. Where did you end up?

19 A. In Cruces, Southern.

20 Q. Do you remember approximately when you  
21 arrived at the Southern facility?

22 A. It was a couple of days right before  
23 Christmas. I would say the 20th; 19th or the 20th.

24 Q. And do you remember that because it was  
25 Christmastime?

1 A. Yes.

2 Q. What year was that?

3 A. 2013.

4 Q. And at that point it doesn't seem like you  
5 had too much time left. Were you asked questions  
6 about whether or not you wanted to go to any gang  
7 drop-out programs or anything like that?

8 A. They did ask me that. They asked me,  
9 like, within the first month or two that I was in  
10 RDC in Los Lunas.

11 Q. What was your response?

12 A. I responded with a "no." Because I said,  
13 "I'm short-timing. I'm probably not going to go  
14 anywhere that it's going to matter, so I'll just --  
15 no, I'll go ahead and refuse right now, and let it  
16 be like that."

17 Q. What do you mean by short-timing?

18 A. Short-timing, I was less than a year to  
19 get out.

20 Q. Where were you housed once you arrived at  
21 the Southern New Mexico Correctional Facility?

22 A. In 1-A, B pod.

23 Q. And the jury has heard that term before,  
24 but is that the blue pod?

25 A. Yes.

1 Q. And who is housed in that pod?

2 A. SNM Gang members.

3 Q. Were you aware of any members or any  
4 people housed in that pod who weren't SNM Gang  
5 members?

6 A. No.

7 Q. Do you know a person named Ronald Sanchez?

8 A. Yes.

9 Q. And who is he?

10 A. He is Daniel Sanchez' brother.

11 Q. Can you tell the members of the jury  
12 whether he was an SNM Gang member?

13 A. He is not an SNM Gang member.

14 Q. Were you aware of any other people who  
15 were not SNM Gang members?

16 A. When I first got there, I thought  
17 everybody was SNM. But as I sat there for a while,  
18 I found out Ron wasn't an SNM Gang member; and  
19 another guy named something Hernandez, Polo, he's  
20 not an SNM Gang member either.

21 Q. If you know, do you know why they were  
22 allowed to live with SNM Gang members?

23 A. They were suspected by the State that they  
24 were SNM Gang members, and they put them with us.  
25 They've been with us so long that they just, you

1 know, kind of grew on them, I guess. And I mean,  
2 Ron, because of his brother -- obviously, they let  
3 him live there. Polo -- he, I guess, grew on  
4 everybody, and they accepted him.

5 Q. Given the fact that Ronald Sanchez was  
6 Daniel Sanchez's brother, did you expect him to have  
7 any problems in the pod?

8 A. No.

9 Q. What was Daniel Sanchez's position in the  
10 pod?

11 A. At the time I didn't know. After sitting  
12 there after a while and asking questions and people  
13 telling me that he was the spokesman for the pod.

14 Q. What did it mean to be the spokesman?

15 A. Like the llavero, the car; he holds the  
16 keys to the car. Any decisions, anything goes  
17 through him.

18 Q. Did any other gang members arrive with you  
19 at Southern?

20 A. Yes.

21 Q. Who else arrived with you?

22 A. Mario Rodriguez.

23 Q. Do you know him by any other names?

24 A. Blue.

25 Q. At that point in time did you get along



1 okay with Mario Rodriguez?

2 A. I ran into him a few times. But yeah, we  
3 got along.

4 Q. When you first arrived at the pod, who did  
5 you actually know?

6 A. The only person that I knew and remembered  
7 and that knew me was Dan Sanchez.

8 Q. In addition to Blue?

9 A. Yes, in addition to Blue.

10 Q. Now, what happens when you first arrive in  
11 a pod? Are you allowed to circulate with the other  
12 inmates?

13 A. Not right away. You're given a few days  
14 inside your cell for orientation. Got to see the  
15 unit manager. He asks you questions, if you have  
16 any violations coming, if you messed up on the  
17 streets, if you were supposed to do something that  
18 you didn't do, are you okay to live with these guys  
19 and, you know, just to make sure that you're safe  
20 and you can come out. Do you have any enemies? I  
21 said, "No, no, I'm okay. I'm all good."

22 And they let me out.

23 Q. Now, at that point in time, did you have a  
24 chance to PC, or go into protective custody?

25 A. Yes, you do.

1 Q. Is that a good thing or a bad thing?

2 A. Depending on who you are, it could be bad.

3 Q. Why would it be bad?

4 A. Because then you'll be known forever as a  
5 PC, as a protective custody. They call them PC  
6 cases. They're guys that go in protective custody,  
7 they're scared, they can't make it, they can't hack  
8 it, you know. So they call them PC cases, and  
9 that's what they want to do, lock themselves in the  
10 room.

11 Q. Once you arrive at the facility, do you  
12 have any hygiene or commissary or canteen items when  
13 you first get there?

14 A. Yeah. They let you have -- like, when you  
15 first get there, they don't let you have all your  
16 property. But they let you have the basics, like  
17 hygiene and stuff, deodorant, lotion, shower shoes.  
18 That's it.

19 Q. What about your legal paperwork?

20 A. Legal paperwork is also accepted.

21 Q. Did you bring any legal paperwork with  
22 you?

23 A. Yes.

24 Q. And what do you remember about anybody  
25 searching your legal paperwork?

1 A. Nobody searched my paperwork. Nobody  
2 asked me anything. I mean, they asked me why I came  
3 back, but they didn't -- any alarms didn't come to  
4 their heads about why I was there or anything like  
5 that, so they didn't ask me for the paperwork.

6 Q. And when you're answering that question in  
7 that way, are you talking about other inmates?

8 A. Yes.

9 Q. So are there times when inmates also ask  
10 to see your paperwork?

11 A. There's times that happens.

12 Q. Why do they do that?

13 A. Well, they do it if they don't know you,  
14 you know. And being that Dan Sanchez knew me and  
15 knew that I had protected Michael Armendarres, and I  
16 stabbed that dude in Hobbs, that Sureno, that my  
17 reputation for that preceded me, and I was okay by  
18 that standard.

19 Q. I also want to ask you about whether the  
20 correction officers look at your legal paperwork.

21 A. They're not allowed to. Now, I don't know  
22 if they do secretly but I doubt it. Most of them  
23 really don't care.

24 Q. What do you remember about when you  
25 arrived there? Did someone inventory your property

1 when you left the facility and when you arrived at  
2 Southern?

3 A. I inventoried it with an officer myself  
4 when they packed me up in Los Lunas. And then when  
5 I got to Southern, they said in front of me, they  
6 said, "You can have, this, this, this for now, but  
7 when you go through orientation, we'll give you the  
8 rest of your stuff."

9 Q. In your case, do you remember if they  
10 physically inspected your legal paperwork?

11 A. They combed through it to make sure there  
12 wasn't any contraband, to see if there wasn't  
13 anything that was allowed.

14 Q. Anything more than thumbing through it?

15 A. No.

16 Q. Now, during between the December and March  
17 timeframe, how are you generally spending your days?

18 A. Well, right away, as soon as I got there  
19 in Cruces, I sat in my cell for a few days. I went  
20 to speak with the unit manager. He let me out the  
21 day before Christmas Eve, and I sat there and  
22 commingled with everybody for two days. Then I went  
23 back to Los Lunas for a transport, because I had a  
24 court date.

25 Q. You mentioned earlier you had a 2011

1 arrest for drug trafficking. Is that the charge  
2 that was still pending even when you arrived at  
3 Southern?

4 A. Yes.

5 Q. And is that what you got transferred back  
6 and forth for to court?

7 A. Yes.

8 Q. And was that an ongoing process in terms  
9 of going back to Southern and then going back to  
10 court to face your drug-trafficking charges?

11 A. Yes, it was.

12 Q. How else were you spending your time  
13 between December and March?

14 A. Back and forth in transport, sitting  
15 there, going outside, workout, talking with some of  
16 the guys, watching TV, using the phone. We had  
17 things to -- you know, Suboxones. We were doing  
18 shots, whatever. Anything to pass the time.

19 Q. All right. So can you tell the members of  
20 the jury whether you were also doing Suboxone during  
21 that time?

22 A. I was.

23 Q. Any other drugs that you were doing during  
24 that timeframe?

25 A. No. We were doing tattoos, getting

1 tattoos.

2 Q. Now, when you're doing Suboxone in the  
3 pod, are there syringes everywhere? Or what do you  
4 do for syringes?

5 A. Not everywhere. There's a few people that  
6 I would say are lucky to have them. They're pretty  
7 much getting high with everybody else because, you  
8 know, they have -- everyone needs that. So if they  
9 have it, they're in the car, they're able to get  
10 high.

11 Q. And are you supposed to have syringes in  
12 the pod?

13 A. No.

14 Q. And since you said there aren't many of  
15 them, does this mean that the inmates share the  
16 syringes to inject?

17 A. Yes.

18 Q. At some point in time, do you recall  
19 receiving information from Mr. Marcantel about  
20 people getting out of their pods and things of that  
21 nature, or getting out of their cells?

22 A. Yeah. I was -- one of the times that I  
23 was at court, he came down and told everybody that  
24 he was letting us all out; he was going to give us  
25 jobs in the wheelchair program. And eventually we

1 were going to work our way out to general  
2 population.

3 Q. So was that a plan he communicated to you  
4 guys?

5 A. Yes.

6 Q. What did you know about the wheelchair  
7 program?

8 A. Not much. That it was just a job for us,  
9 and that we'd be fixing old wheelchairs, sending  
10 them to countries that needed stuff that didn't have  
11 it.

12 Q. Did you get a job with the wheelchair  
13 program?

14 A. I did not.

15 Q. Do you know why not?

16 A. I just got there and then I was back and  
17 forth on transport, so they probably felt that it  
18 was better that I didn't go in there at the time.

19 Q. Now, in that pod, was there someone living  
20 with you by the name Javier Molina?

21 A. Yes.

22 Q. And how did you get along with him?

23 A. We got along all right. I mean, we didn't  
24 kick back and chill. He wasn't my best friend or  
25 nothing, but we were okay.

1 Q. Do you recall if he ever discussed about  
2 somebody named Jesse Sosa?

3 A. Yes, he did. He asked me if I was in Los  
4 Lunas with him.

5 Q. Did that have any meaning, though, at that  
6 time?

7 A. No.

8 MS. JACKS: Excuse me. I'm going to  
9 object. This appears to be eliciting hearsay.

10 THE COURT: Well, let's not do that.  
11 Sustained.

12 MS. JACKS: Can we strike the answer,  
13 please?

14 THE COURT: I'll strike the answer.

15 MR. CASTELLANO: Your Honor, a question is  
16 not hearsay. Questions and commands are not hearsay  
17 and I think, therefore, a question is admissible  
18 under the rules of evidence.

19 THE COURT: Well, sometimes. But this  
20 particular one I'm going to sustain. Sometimes a  
21 question can be an assertion.

22 BY MR. CASTELLANO:

23 Q. Let me ask you what you told Mr. Molina  
24 about Jesse Sosa. What did you tell him?

25 A. I told him he was there with me, I was



1 there with him.

2 Q. And did that conversation have any  
3 significance to you at that time?

4 A. No.

5 Q. I want to take you now to March 6 of 2014.  
6 Do you remember anyone arriving at the facility, in  
7 particular, the building where you were staying?

8 A. Yes.

9 Q. Who arrived?

10 A. Lupe Urquizo, Mauricio Varela, and some  
11 other kid that I don't know, but they call him  
12 Cartoon.

13 Q. Cartoon?

14 A. Yeah, Cartoon. I don't know his legal  
15 name.

16 Q. Mr. Armenta, let me have you move a little  
17 closer to the microphone. I want to make sure  
18 everyone can hear you.

19 And do you recall if there was any talk in  
20 the pod when those two people arrived?

21 A. No, not right away.

22 Q. You say, "Not right away." What  
23 eventually happened within your pod, knowing these  
24 two had arrived?

25 A. Well, I had seen them walking through the

1 sally port, and Blue happened to be walking by. I  
2 yelled at him, "Hey, look, there is Marijuano" --  
3 who is Lupe Urquizo -- "and Archie" -- who is  
4 Mauricio Varela.

5 And he ran to the doors, like, "Hey,  
6 what's up?"

7 And they went to A pod, which is yellow  
8 pod. They went into the pod. And Blue, Timothy  
9 Martinez, Red, ran to the door that connects blue  
10 pod to yellow pod, and went to go talk to Archie and  
11 Marijuano.

12 Q. Now, so the jury understands, are blue pod  
13 and yellow pod next door to each other?

14 A. Yes.

15 Q. Are there doors that connect those two  
16 pods?

17 A. Yes.

18 Q. Can you, as an inmate, pass through those  
19 doors anytime you want?

20 A. No, they're locked all the time.

21 Q. How do you communicate through the yellow  
22 pod door?

23 A. Through the cracks, through the doorway.  
24 It's very easy.

25 Q. Do you recall anything that Mr. Rodriguez

1 asked at that time?

2 A. I remember him saying, "You have it? Let  
3 me see it."

4 And then he said something about, "Oh,  
5 they'll give you your property tomorrow. As soon as  
6 you get it, let me get it."

7 Q. At that point, did you know what he was  
8 talking about?

9 A. No.

10 Q. What did you think he was talking about?

11 A. I had no idea.

12 Q. And how did Mr. Rodriguez seem when he was  
13 asking these questions? How did he appear to you?

14 A. Regular, normal.

15 Q. And how was it that you were able to see  
16 Mr. Urquizo and Mr. Varela from your pod?

17 A. Each door leading out of our pod has a  
18 window in it and you could see on the outside.

19 Q. Now, from your perspective, other than  
20 their arrival, did it otherwise seem like a normal  
21 day to you on the 6th?

22 A. Yes.

23 Q. Anything else you remember from the 6th  
24 that stands out?

25 A. No.

1 Q. Turning your attention now to March 7,  
2 what day is March 7?

3 A. Friday.

4 Q. And what happens on Fridays?

5 A. We go to the big yard, or to the gym.

6 Q. And how does that work? You mentioned two  
7 options. Do you have an option?

8 A. We rotate between the three pods that are  
9 in the one unit. So one pod will go to the gym and  
10 the other two pods will hit the two big yards  
11 outside. And then the next week it will be another  
12 pod going in the gym, and it will just rotate every  
13 three weeks.

14 Q. Do you remember how many people were in  
15 your pod at the time?

16 A. There was 11.

17 Q. And did you know who was in the other  
18 pods, starting with yellow pod?

19 A. A few different people.

20 Q. Who did you know who was in yellow pod?

21 A. Personally, I don't know any of them, but  
22 I know names of people.

23 Q. Right. In other words, when you  
24 communicate with members, who do you learn is in the  
25 other pod?

1 A. Lazy, Carlos Herrera; Alex Munoz. A bunch  
2 of guys. There was a couple of guys that left our  
3 pod and went to that pod, too.

4 Q. Who was that?

5 A. Dale, Dale Chavez. And I can't remember  
6 his name. I have no idea.

7 Q. Will you tell the members of the jury  
8 whether Billy Cordova was in yellow pod?

9 A. Billy Cordova was in yellow pod.

10 Q. Now, you mentioned Lazy, or Carlos  
11 Herrera. Did you know what his position was in  
12 yellow pod?

13 A. I learned that he also --

14 MS. BHALLA: Objection. Hearsay, Your  
15 Honor.

16 THE COURT: Well, why don't you lay a  
17 foundation first to see if he knows from his  
18 personal knowledge rather than from somebody else?

19 BY MR. CASTELLANO:

20 Q. Now, when you get to a pod like that, does  
21 anyone lay out for you who the leaders are in the  
22 pod and who you should be listening to?

23 A. No, not right away. It's not something  
24 that -- I mean, I guess they would be proud to have  
25 that position, but they're not too adamant about

1 letting anybody else know right away who --

2 Q. You said "Not right away." Eventually  
3 through your interactions with other gang members,  
4 do you learn who is leading each pod?

5 A. Yeah.

6 Q. How do you learn that?

7 A. By talking, a sewing circle.

8 Q. Is it part of the culture of the gang, to  
9 know who is leading and whose orders --

10 A. It should be common knowledge to know who  
11 that is. That way, nobody just comes up to you and  
12 say, "Hey, you got to go do this." "Well, who are  
13 you? Why are you telling me to do this?"

14 Q. In other words, is there a chain of  
15 command that needs to be followed?

16 A. Yeah, there is.

17 Q. And when you get to a pod, are you  
18 learning about the structure of that pod and, like  
19 you said, who you have to answer to and who you  
20 don't?

21 A. Yes.

22 Q. And along those lines, then, did you learn  
23 about Mr. Herrera's position?

24 A. Yes.

25 MR. MAYNARD: Your Honor, may I object?

1 The answer is still going to be hearsay. I don't  
2 think a foundation has --

3 THE COURT: How do you avoid this being  
4 hearsay, Mr. Castellano?

5 MR. CASTELLANO: Well, it's part of the  
6 gang rules and part of the gang culture that they  
7 have to know, as he stated, whose orders you have to  
8 follow and whose orders you don't have to follow.  
9 So it's important in terms of the gang rules.

10 THE COURT: I think this is still closer  
11 to just coming in for the truth, so I'll sustain.

12 BY MR. CASTELLANO:

13 Q. Now, without saying names, were you aware  
14 of who leaders were of yellow pod and also green  
15 pod?

16 A. Yes.

17 Q. And once again, without telling us names,  
18 how did you know eventually how those people were  
19 leaders in those pods?

20 A. Just through regular talk, conversation  
21 throughout the days; being curious, asking  
22 questions; it slipping from other people's mouths,  
23 stuff like that.

24 Q. I want to take you back to the time on  
25 March 7 when you said you went to big yard. What

1 time of the day is that?

2 A. 10:00 in the morning.

3 Q. And throughout the day, is there typically  
4 a schedule that's kept by the facilities in terms of  
5 yard lockdown time, count, lunch, things of that  
6 nature?

7 A. Yes.

8 Q. Who do you recall in the morning who went  
9 out to yard?

10 A. We all did, except for the people that  
11 work in the wheelchair program. They were at work.

12 Q. Let me ask you, then, if Mario Rodriguez  
13 went out to yard that morning.

14 A. Yes, he did.

15 Q. What about Daniel Sanchez?

16 A. Yes, he did.

17 Q. Ronald Sanchez?

18 A. Yes, he did.

19 Q. Jerry Montoya?

20 A. Yes.

21 Q. Javier Molina?

22 A. Yes.

23 Q. And you said people who weren't there were  
24 at work?

25 A. Yeah. The only one that didn't also go



1 was Rudy Perez. He was in the room. He hardly ever  
2 went to rec. He wasn't really too healthy to be  
3 walking all the time.

4 Q. So you mentioned Rudy Perez. And was  
5 Timothy Martinez at work?

6 A. Yes.

7 Q. What other names do you know Timothy  
8 Martinez by?

9 A. Red.

10 Q. Now, you mentioned Rudy Perez didn't leave  
11 his room a lot of the time. Do you know if people  
12 looked out for him in the pod?

13 A. In what sense? I mean, he had his own  
14 money. There was this guy that would help him.  
15 Like I think he got paid to help him if he needed  
16 the help.

17 Q. Do you remember who helped him?

18 A. Polo, the Hernandez guy.

19 Q. Do you remember if anyone ever took Mr.  
20 Perez anywhere to appointments at the facility?

21 A. No, I never seen him leave the pod.

22 Q. What were you guys doing in the yard that  
23 morning?

24 A. Taking pictures.

25 Q. Is that a common thing to do in the

1 prison?

2 A. Yeah. Every once in a while, whenever  
3 they feel like they want to take some pictures,  
4 yeah, the gym officer will give us the camera and we  
5 can take pictures.

6 Q. So in other words, do you have a camera or  
7 does somebody provide the camera to you?

8 A. They provided us with the camera. Most of  
9 the time it's the gym officer that takes the  
10 pictures. But he wasn't there that day. So the  
11 officer that was running the yard -- he just gave us  
12 the camera and we were taking pictures.

13 Q. What was the environment like to you that  
14 morning? Did it seem normal? Did you notice  
15 anything else about what was going on there?

16 A. Not during the yard or before.

17 Q. At some point in time can you tell whether  
18 somebody's property arrived?

19 A. While we were in the yard, I seen the  
20 officer bringing the property for the guys that came  
21 the day before.

22 Q. How do you know it's a property officer?

23 A. Because they go through, you know, posts  
24 every six months. Sometimes the property officer  
25 stays a year, two years, but you know, when you come

1 in from transport or you're coming in from another  
2 prison, the property officer is there in ID. And  
3 when I had came back a couple weeks before, he was  
4 the property officer.

5 Q. And what time do you think this was?

6 A. About 10:30, 10:45. Right before 11:00.  
7 Because 11:00 is when they call us back in for  
8 count, lockdown.

9 Q. All right. Now, once the cart goes by can  
10 you tell whether anyone else is paying attention to  
11 that cart or interested in it?

12 A. No.

13 Q. What happens after yard?

14 A. We go back in and lock down for count, get  
15 fed lunch.

16 Q. You said two things there. What happens  
17 when you get locked down?

18 A. We go back into our unit, to the pod. We  
19 go to our individual cells. They shut the doors and  
20 we sit there for an hour while they do their count.  
21 The COs come, make sure you're in there, write down  
22 on the paper that you're there. They leave, and a  
23 few minutes later they come back with the trays; you  
24 eat lunch. After you eat lunch, they open the doors  
25 and let you out.

1 Q. At some point in time do you notice Mr.  
2 Rodriguez doing anything in the pod?

3 A. No. Him and Dan are talking. I'm  
4 watching TV. Everybody is doing their own thing at  
5 that time. At some point after chow, after  
6 lunchtime, you know, they get called to the door.  
7 Mario gets called to the door, Blue, and he receives  
8 something from somebody next door. I'm not sure who  
9 gave it to him. But I seen him and Dan Sanchez  
10 huddle up around the lower tier by cell 11, by  
11 Blue's room, and they were sitting there reading  
12 something.

13 Q. Did you know what they were reading?

14 A. No.

15 Q. Did you know it was passed?

16 A. No.

17 Q. When you say "the door next door," is that  
18 the door to yellow pod?

19 A. Yes, it is.

20 Q. What else do you notice about Mr.  
21 Rodriguez and Daniel Sanchez looking at that  
22 paperwork?

23 A. They're just right there at that point.  
24 They're huddled up reading that paperwork. Dan  
25 Sanchez and Mario Rodriguez. I know I'm still

1 watching TV. I look to the left, and they're at the  
2 door again. I believe they passed the paperwork,  
3 whatever it was, back, and they were talking with  
4 someone, and Mario was looking at me, just staring  
5 at me, while he was talking to whoever it was next  
6 door.

7 Q. Did that mean anything to you at that  
8 point?

9 A. At that time, no. I mean I was a little  
10 curious as to why he was just staring at me, but I  
11 just took it as whatever; he was looking at  
12 something while he's listening to something, and  
13 that's normal. You sit there and you listen to  
14 somebody and you're looking at the TV or the phone  
15 or somebody else; it's just normal. So I just took  
16 it as that and I continued to watch television.

17 Q. So did it appear as if he was passing  
18 something back under the door?

19 A. Yeah.

20 Q. Did you hear him call out any names or did  
21 you know who it was going to at that time?

22 A. No.

23 Q. Do you know about what time that is when  
24 the paperwork goes back under the door?

25 A. It was around, I'd say, anywhere from

1 12:30 to 1:30, within that hour.

2 Q. I know I'm testing your memory here, but  
3 why do you think it's during that timeframe?

4 A. Because we had just came out. I was  
5 watching TV. And right after that happened -- not  
6 right after, but sometime after, we all went into  
7 our rooms. I don't remember really if it was a  
8 lockdown, or if we just went in our rooms to chill  
9 for a little while, lay down and kick back, relax,  
10 before we went outside to our other rec. Because we  
11 get yard two times a day, and that's a smaller yard,  
12 so that's what we did. And we were in our rooms,  
13 and that was at 2:00.

14 Q. What is the smaller yard called?

15 A. The phone yard.

16 Q. What types of things do you have in the  
17 phone yard?

18 A. Workout equipment, a bag, punching bag,  
19 basketball, a ball for handball.

20 Q. What time do you remember the phone yard  
21 time being? What time would you go out?

22 A. 3:00. That day it was 3:00. Some days  
23 it's 2:00, depending on rotation, again.

24 Q. And how long would you be at phone yard?

25 A. One hour.

1 Q. What happens to everybody when they're out  
2 at phone yard? Basically what are you doing at that  
3 time?

4 A. Outside walking, working out, playing  
5 basketball, playing handball.

6 Q. Who went outside?

7 A. Myself, Dan Sanchez, Jerry Montoya, and  
8 Javier Molina.

9 Q. Now, you didn't mention Mario Rodriguez'  
10 name.

11 A. No.

12 Q. Where was he?

13 A. He was in his cell. He stayed in his  
14 cell.

15 Q. Did you notice anything about his cell?

16 A. He had a curtain up.

17 Q. So with the curtain up, could you see  
18 inside his window?

19 A. No.

20 Q. Did you know what he was doing in there?

21 A. I called him. I said, "Hey, yard. Blue,  
22 yard call. Let's go.

23 He goes, "I'm not going. I'm taking a  
24 shit."

25 All right. That seemed normal because the

1 curtain was up. And if -- when the curtain is up,  
2 basically you're number 2.

3 Q. Do you notice any conversations with any  
4 other people during that rec time?

5 A. Yeah, we were at rec. Me and Dan were  
6 walking. We had played handball for a while with  
7 Javier and Jerry Montoya, and me and Dan took a  
8 break. And we were walking around talking. And  
9 another inmate walked out because he had a meeting  
10 or he had to talk to the unit manager about  
11 something. And that inmate came and talked to us,  
12 talked to Dan Sanchez.

13 Q. Who was that inmate?

14 A. Benjamin Clark.

15 Q. Do you know what pod he was in?

16 A. Green pod.

17 Q. Do you know what the topic of discussion  
18 was between those two?

19 A. It was about Lupe Urquizo.

20 Q. What was the issue there?

21 A. Well, Benjamin Clark wanted him to get  
22 hit.

23 MS. JACKS: Objection, hearsay.

24 MR. CASTELLANO: It's not for the truth of  
25 the matter asserted, Your Honor.



1 THE COURT: Lay some foundation as to how  
2 he knows these discussions.

3 BY MR. CASTELLANO:

4 Q. Did you hear the conversation?

5 A. I was right there right next to Dan  
6 Sanchez and Ben Clark.

7 Q. So when you're at rec and you have a  
8 different pod, how are the pods able to talk to each  
9 other outside?

10 A. There is a gate, like a fence that cordons  
11 off the rec, and to the offices of the unit manager,  
12 sergeant, stuff like that.

13 Q. So where were you guys standing, you and  
14 Daniel Sanchez, and where was Benjamin Clark  
15 standing?

16 A. Me and Dan were on the inside of the rec  
17 yard, and Benjamin Clark was on the outside of the  
18 rec yard.

19 Q. Was he in the cage, too, or was he passing  
20 through?

21 A. No, he was passing through. See, the rec  
22 is inside of a gated area, so there is the gated  
23 area, the phone yard. And then there is another  
24 gated area where the recreation actually takes  
25 place.

1 Q. So you're standing here, and you hear some  
2 conversation between the defendant Sanchez and Ben  
3 Clark?

4 A. Yes.

5 Q. What's the topic of the conversation?

6 MS. JACKS: Same objection, hearsay.

7 THE COURT: Why don't you approach and  
8 tell me what's about to be said here?

9 (The following proceedings were held at  
10 the bench.)

11 THE COURT: Is this one of those  
12 statements that have been identified?

13 MS. JACKS: We haven't heard about this  
14 statement before this morning.

15 THE COURT: What is the statement?

16 MR. CASTELLANO: Ben Clark said to Daniel  
17 Sanchez they were going to mess up Lupe Urquizo, and  
18 Daniel Sanchez said, "That's not going to happen."  
19 That's it.

20 THE COURT: Okay. And how does that --

21 MS. JACKS: I'll withdraw the objection.

22 THE COURT: Okay.

23 (The following proceedings were held in  
24 open court.)

25 THE COURT: All right, Mr. Castellano.

1 MR. CASTELLANO: Thank you, Your Honor.

2 BY MR. CASTELLANO:

3 Q. What did Mr. Clark say to Mr. Sanchez?

4 A. That he wanted Lupe Urquizo hit.

5 Q. What was Mr. Sanchez' response?

6 A. Mr. Sanchez said, "No, that's not going to  
7 happen."

8 Q. Anything else you recall happening during  
9 the 3:00 to 4:00 recreation time?

10 A. No. We finished having the conversation.  
11 Well, I mean I was there, but I didn't converse; I  
12 didn't put my two cents in. It was between them  
13 two, but I was right there. They finished talking,  
14 and me and Dan continued to walk in the yard. And  
15 then 4:00 came, and it was time to go in for count.

16 Oh, wait, wait. We remembered seeing the  
17 guys from the wheelchair program coming back.

18 Q. So what time is it? Are they coming back  
19 as you're coming in from count, or how does --

20 A. No, they're coming back before we're  
21 allowed back into our pod, before count. So I would  
22 say they get off around 3:30, 3:45, and they walk  
23 back from wherever the job was back to the unit.

24 Q. So you think that's approximately 3:30 to  
25 3:45?

1 A. Yeah, right before 4:00 for count.

2 Q. And how were you able to see them coming  
3 back from the wheelchair program?

4 A. Because we can see our front doors to the  
5 unit from the rec yard. You can see them walk by.

6 Q. And then are you able to even see them  
7 pass by your location and back into the building?

8 A. Yes.

9 Q. Okay. Now that you're coming back from  
10 rec yard, do you once again return to your  
11 individual cells?

12 A. Yes.

13 Q. And is that another time to do a count?

14 A. Yes, it is.

15 Q. In your mind, does it seem like a normal  
16 day, like any other day?

17 A. Yeah.

18 Q. Are you aware of anything going on in the  
19 pod?

20 A. No, not at all.

21 Q. How long approximately are you in your  
22 cells after you come back in at 4:00?

23 A. An hour. For the most part of an hour.

24 Q. And what typically happens during that  
25 time when you're back in your cell?

1           A.     We're watching TV, we're getting some  
2 laydown time, resting the body, whatever. The COs  
3 are coming through counting the heads again, and we  
4 get fed our dinner.

5           Q.     When you got fed your dinner, are you  
6 eating it inside your cell or outside your cell?

7           A.     Inside our cell. Most times it's inside  
8 our cell. Sometimes dinner is a little late, so we  
9 get outside our cells and we eat on the tables.

10          Q.     Did that happen on that day?

11          A.     No.

12          Q.     What happened when the doors open?

13          A.     The doors open, people came out. We  
14 already had eaten our dinner, so we had our trays  
15 still in our cell. People were bringing their trays  
16 down from their cells to the front door to stack  
17 them up so the COs can pick them up. And at that  
18 time Mr. Sanchez had walked down, called me over to  
19 the table that we usually sit at, because I sit with  
20 him and his brother for dinner, and he told me that  
21 the paperwork had dropped on Javier and that we were  
22 going to kill him.

23          Q.     Who was Javier?

24          A.     Javier Molina.

25          Q.     What does that mean to you when someone

1 says the paperwork dropped?

2 A. That it hit to wherever we were at; that  
3 it's there; it came; it arrived at our location.

4 Q. Why would the paperwork be important?

5 A. Because without paperwork, you couldn't  
6 act the way we did without it.

7 Q. Now, you used the term, "We're going to  
8 kill Molina." What did that mean for you at that  
9 time?

10 A. To me, I just thought, you know, it could  
11 have been anybody in the pod. We're going to kill  
12 him. You know, the paperwork is here. This is  
13 what's going to happen.

14 Q. At this point in time, how many days do  
15 you have approximately until you're getting out of  
16 prison?

17 A. Just a little -- like 43, 44 days.

18 Q. At some point do you learn who is picked  
19 to do the murder?

20 A. Well, when he said that we were going to  
21 kill him, I said, "Okay, who?"

22 And he said, "Well, you are, you and  
23 Plazi."

24 And I told him, "No, I'm not."

25 And he goes, "Yeah, you are."

1 I said, "Dude, I get out in, like, 40-some  
2 days. I'm going home."

3 "Okay. You're going to kill him."

4 And I said, "No, I'm not," one more time.  
5 And that's when he told me, he goes, "No, you're  
6 going to kill him, or you'll be on the other side of  
7 that, too."

8 Q. You said he said it would be you and  
9 Plazi?

10 A. Yes. That's Jerry Montoya.

11 Q. So at this point you're short to the door,  
12 and you learn about this. What's going through your  
13 mind?

14 A. All kind of things.

15 Q. Like what?

16 A. How can I get away from it? How can I not  
17 do this? Just everything. I mean, do I have to  
18 kill this guy? Because there towards the end, once  
19 he said that my life was in danger, as well, you  
20 know, I finally succumbed to his demands, and I went  
21 with everything that was supposed to happen, because  
22 I did not want to get killed myself.

23 Q. What did it mean to you that the order was  
24 coming from Daniel Sanchez?

25 A. Well, I mean, like I said, he was the

1 spokesman of the pod and he has the authority, along  
2 with other people and their approval to say, "Yeah,  
3 okay. It's all right. Let's do it. The paperwork  
4 is legit. Let's get it done."

5 Q. Now, as a member of the gang, did you know  
6 or think that a day like this would come?

7 A. Yeah. Yeah.

8 Q. Why is that?

9 A. Because you're a gang member, prison gang  
10 member, and it's kind of required of you. Did I  
11 think it was going to come for me that soon? No, I  
12 already had earned my bones, so I thought, and I  
13 didn't think I would have to do anything like that,  
14 especially being so short to the door. You think  
15 you know your brothers love you. You think that  
16 they'll do anything to look out for you and be in  
17 your best interests. "Hey, he's getting out. You  
18 don't do that. You're more beneficial to us out  
19 there on the streets." It wasn't like that.

20 Q. You said something a second ago, you said  
21 that you thought that you had earned your bones.  
22 Was there some disagreement about whether you had or  
23 had not?

24 A. Yeah. When I went to get this tattoo on  
25 my head with the Zia and the state, I also wanted



1 the S in it, too. And Mr. Sanchez and Mr. Rodriguez  
2 both told me no, because I didn't earn my bones in  
3 an honorable way; it was all in self-defense; and  
4 that I didn't earn it the right way.

5 Q. At this point, was there any discussion  
6 with you doing this to earn your bones?

7 A. No, it was just said it was time to put in  
8 some jale.

9 Q. What's jale?

10 A. Work.

11 Q. After this conversation with Mr. Sanchez,  
12 did you have a conversation with Mr. Rodriguez?

13 A. Yes. He told me to go to Blue's room.

14 Q. Who told you?

15 A. Dan Sanchez.

16 Q. Did you go to Blue's room?

17 A. I did.

18 Q. What happened there?

19 A. Mr. Rodriguez handed me a shank.

20 Q. And did you have any discussion with Mr.  
21 Rodriguez about what the shank was for?

22 A. Yes, he told me how to -- because he had  
23 it wrapped with some shoestring or shoelace,  
24 whatever, he had it looped with a lasso, so he told  
25 me, "Wrap it around your wrist. Make sure it's on

1 there tight so it doesn't fall off your hand."

2           It could either go up -- he told me how to  
3 do it, showing me how to use the knife, use the  
4 fierro, the shank, in a stabbing motion, and  
5 however.

6           Q.    What did it look like otherwise? Was it a  
7 big piece of metal, small piece of metal?

8           A.    It was almost a whole foot long. I'd say  
9 about 10, 11 inches, black, and about the width of a  
10 pencil.

11          Q.    During this timeframe, do you learn how  
12 other SNM members are supposed to be involved in  
13 this Molina hit?

14          A.    Yes.

15          Q.    What do you learn?

16          A.    I knew when Dan -- Mr. Sanchez told me  
17 about Javier and Plazi, who was Jerry Montoya, was  
18 going to do it with me, and that Red, Mr. Martinez,  
19 at that point was going to knock him out; he was  
20 going to punch him and knock him out. And that's  
21 when me and Jerry were going to go in and start  
22 stabbing him.

23          Q.    How did you learn that Red, or Timothy  
24 Martinez, was going to be involved?

25          A.    After I got the shank, Blue -- Mario

1 Rodriguez -- and Mr. Sanchez had approached me at  
2 different times and they told what was going to  
3 happen and this is what Red is going to do, Dan  
4 Sanchez had told me what Red was going to do. Blue  
5 had told me what I was going to do afterwards with  
6 my shank. You know, I had asked Blue at that point,  
7 too, I said, "Well, what about the cameras?"

8 He said, "Well, Dan doesn't want them  
9 covered."

10 "Okay, why not?"

11 "Because he just don't."

12 "Whatever," and walked away and just  
13 waited.

14 Q. Why was that important to you to cover the  
15 cameras?

16 A. Because cameras are cameras. They'll see  
17 you doing what you're not supposed to be doing.

18 Q. And how did you feel about the fact that  
19 the cameras would not be covered?

20 A. I didn't like it.

21 Q. You mentioned something about -- I think  
22 Mr. Rodriguez explaining to you what you would do  
23 with your shank afterwards. What were you supposed  
24 do with it?

25 A. I was supposed to give it to Mr. Sanchez.

1 He was supposed to get rid of it for me.

2 Q. What was supposed to happen to Mr.  
3 Montoya's shank?

4 A. Mr. Rodriguez was going to take care of  
5 that one.

6 Q. So as this plan starts progressing, do you  
7 think this is going to happen that day?

8 A. Yes.

9 Q. How are you feeling?

10 A. I'm scared, nervous. I'm -- it all seemed  
11 like I was in a dream, the rest of that, until it  
12 happened; and everything was just, like, not real.  
13 It was weird. I was not myself. Everything was  
14 just crazy.

15 Q. So once you have the shank, is there any  
16 point in time when you go back into your cell?

17 A. Yes.

18 Q. And what happens during that time?

19 A. That's when I go in my cell and I wrap it  
20 around my wrist and put it inside my pants.

21 Q. And what time is it that you're in your  
22 cell?

23 A. Anywhere from 5:05 to 5:15. The doors  
24 were still open, so I was in and out different  
25 times.

1 Q. At some point do the doors close?

2 A. Yes.

3 Q. What are you doing during that time when  
4 the doors are still closed?

5 A. I'm in the day room, walking around. I go  
6 and talk to Plazi, Mr. Montoya, because he had  
7 called me and he was, like, "Well, what do we do?"

8 "Oh, what can we do? There is nothing we  
9 can do. Just do whatever they want and we should be  
10 all right."

11 He said, "Well, just let me go first and  
12 then you go in and get yours. That way, you don't  
13 stab me and we don't stab each other, if we're  
14 stabbing together."

15 I was, like, "All right. Whatever."

16 Q. From your conversation with Mr. Montoya,  
17 did he seem very excited about this plan?

18 A. No, he -- he was scared and nervous, just  
19 like I was. He didn't want to show it. You know,  
20 in that environment, nobody wants to show that type  
21 of fear or weakness or anything like that, but you  
22 could see it in his eyes.

23 Q. All right. So at this point the doors are  
24 closed, but you're outside of your cells; is that  
25 correct?

1 A. Yes.

2 Q. What happens once the pod doors open?

3 A. Two officers and the nurse walk in.

4 Q. Do you know why they're there?

5 A. For med pass.

6 Q. What's that?

7 A. The nurse comes through and passes out our  
8 meds.

9 Q. Did you know where the shanks came from?

10 A. At the time, no, I did not.

11 Q. All right. So at this point now you have  
12 how many correction officers entering the pod?

13 A. Two.

14 Q. And how many nurses?

15 A. One.

16 Q. All right. So you're at a point where you  
17 have corrections officials in the pod and you've  
18 been ordered to hit somebody. Is this a chance for  
19 you to tell the corrections officer what's going on  
20 and get out of this?

21 A. It would be, yeah. But being around the  
22 individuals that I'm around, being in the gang that  
23 I am in, these guys are ruthless. You try to go and  
24 talk to a CO and tell them what's going on, they're  
25 going to attack you right there. There is no nurse

1 or cop that's going to stop them from doing what  
2 they need to do or stopping you from what you're  
3 trying to do.

4 Q. Is it fair to say that you could have done  
5 that?

6 A. Yes, I could have.

7 Q. And how many chances did you have to  
8 approach the corrections officers or the nurse?

9 A. Probably a couple. I would say a couple  
10 times.

11 Q. So about how long are they in the pod?

12 A. Anywhere from five to 10 minutes. She  
13 goes upstairs, goes downstairs. There's only, like,  
14 three or four people that get meds. She went  
15 upstairs for Jason Wright, because he was in his  
16 room. He didn't want to come out. So she went to  
17 his room, handed him his meds; went to Mr. Perez'  
18 room, handed him his meds; and then gave meds, I  
19 believe, to Ron Sanchez. He took meds, too, at that  
20 time.

21 Q. What are Daniel Sanchez and Mario  
22 Rodriguez doing during the time that the COs and the  
23 nurse are coming there?

24 A. Dan Sanchez stayed at the table most of  
25 the time where we sit and eat dinner. He never

1 really moved from there. Mario Rodriguez was back  
2 and forth from Javier's room to the day room, back  
3 up to Javier's room, and just back and forth.

4 Q. So as best as you remember, from the time  
5 the doors open and the corrections officers walk in,  
6 how much time passes between then and the time you  
7 enter Javier Molina's room?

8 A. Ten, fifteen -- about fifteen minutes.

9 Q. All right. So what are you doing during  
10 that time?

11 A. I'm walking around. I'm in a daze. I'm  
12 figuring -- I'm trying to figure out what I can do.  
13 I know I don't have much options now the COs are in  
14 there. Should I take the risk? Should I take the  
15 chance of telling them, getting stabbed right there  
16 in front of them, or beat up, or whatever they were  
17 going to do or what they might have done if I would  
18 have done that?

19 Q. Had you been in this position before?

20 A. No.

21 Q. So eventually what happens? Where are you  
22 waiting as things sort of fall into place?

23 A. By my room, in front of my room on the top  
24 tier.

25 Q. At some point does Mr. Montoya join you?



1 A. Yes.

2 Q. And what are you guys waiting for?

3 A. We're waiting for the sign that Dan told  
4 me that when we start walking into the room. Once  
5 we start walking into the room is when Red puts  
6 Mr. Molina in a chokehold.

7 Q. So at some point in time from where you  
8 are, do you see Mr. Rodriguez and Timothy Martinez  
9 enter Javier Molina's cell?

10 A. Yes.

11 Q. And do you --

12 A. They're in the room.

13 Q. Do you have an idea about what's going to  
14 happen when they go in there?

15 A. Yeah.

16 Q. Do you see what happens once they go in?

17 A. Yes.

18 Q. What do you see?

19 A. Well, they're getting ready to do some  
20 Suboxone. That was, you know, the plan to get him  
21 in there and think everything was okay; they're  
22 friends. So it was very -- he was very comfortable  
23 going in a room with them. And I see Red get on the  
24 toilet, reach over Javier Molina and put his arm  
25 around his neck and choke him out.

1 Q. What happens next?

2 A. Then Mr. Molina goes out. He just falls  
3 limp.

4 Q. What do you and Jerry Montoya do then?

5 A. Me and Jerry Montoya, we get up and walk  
6 towards the room.

7 Q. To do what?

8 A. To stab and kill Mr. Molina.

9 Q. So tell the members of the jury what  
10 happened, please.

11 A. We walked into the room, and at first they  
12 said, "Hold on. Hold on. Wait."

13 We hesitated for a minute.

14 Q. Who said that?

15 A. I think it was Blue. They said, "Wait,  
16 hold on," because they didn't have him in the  
17 position they wanted him in yet.

18 Jerry walked in. I walked in right after  
19 him. Jerry was on his left side -- no, on his right  
20 side, and I was on his left side. And I began  
21 stabbing him right along the same time Mr. Montoya  
22 was. Mr. Montoya was hitting him more in the center  
23 of the chest. I was hitting him more on the left  
24 flank of him.

25 At some point he said, "Slow down,

1 Creeper. Move. I don't want you to stab me."

2 Q. Who said that?

3 A. Mr. Montoya. And so I got up and I moved  
4 around to the other side, and I began stabbing him  
5 on this side. So at that time, while we were  
6 stabbing him, he came to. Mr. Molina came back from  
7 the knockout that they gave him.

8 Q. What did he do?

9 A. He began convulsing, and he got up. He  
10 was bright-eyed, and said, "Like, what's going on?"

11 He tripped out. And he was saying, "All  
12 right. All right. You guys got me. All right,  
13 bros. You got me, you got me. That's it."

14 And that's when Mr. Rodriguez began to  
15 say, "Get him. Don't let him out of the room. Get  
16 him. Get him."

17 And we tried to attack him again but, you  
18 know, Mr. Molina is kind of a big guy, heavysset  
19 dude, and he bulldozed his way out of the room. He  
20 got past us and ran out of the room.

21 Q. Do you think you would have been able to  
22 take Mr. Molina by yourself in what I'll call a fair  
23 fight where you're both conscious?

24 A. I don't underestimate any man. I don't  
25 know. He was a little stockier and bigger than me,

1 but you know, I didn't know the man's skills or what  
2 he was capable of.

3 Q. What happens when he runs out of the room?

4 A. He runs out of the room and begins to run  
5 downstairs to the day room. Mr. Rodriguez, Blue, is  
6 saying, "Get him, Creeper. Get him, Plazi. Go get  
7 him." Because you know, he's still walking, he's  
8 still standing up. "Go get him."

9 So we follow him; first Jerry and then me.  
10 And as we're walking down the stairs, he's by the  
11 door. He's walking down the stairs. Jerry comes  
12 down. I come down. We attack him right there by  
13 the front door. You can't really see him on the  
14 camera, but you can see us and we're attacking him.

15 Q. You said you can't see him on the camera.  
16 Have you had a chance to look at that video?

17 A. I have.

18 Q. All right. At this point in time, are  
19 there any corrections officers or any law  
20 enforcement personnel in the pod?

21 A. No.

22 Q. So just inmates?

23 A. Just inmates.

24 Q. And at what point do the doors open or do  
25 the corrections officers respond?

1           A.     Well, the officer that was in the control  
2 up above the pods that can see in all three pods --  
3 he had seen what was going on. I noticed him that  
4 he saw that what was going on. And he went to  
5 yellow pod, banged on the window and notified those  
6 officers over there that something was going on. I  
7 seen all that while I was walking down the stairs  
8 and seeing what he was doing. While we were  
9 attacking Mr. Molina downstairs, I seen the officers  
10 that were in the pod before at the window watching  
11 what was going on.

12           Q.     Is the door opened or closed at that time?

13           A.     It's closed.

14           Q.     And --

15           THE COURT: Mr. Castellano, would this be  
16 a good time for us to take our morning break?

17           MR. CASTELLANO: Yes, Your Honor.

18           THE COURT: All right. We'll be in recess  
19 for about 15 minutes. All rise.

20           (The jury left the courtroom.)

21           THE COURT: All right. We'll be in recess  
22 for about 15 minutes.

23           (The Court stood in recess.)

24           THE COURT: Let's go on the record.

25           Ms. Bhalla, Mr. Maynard, when you have a

1 chance, give me the inconsistent statement you're  
2 wanting to introduce as well as what it's  
3 inconsistent with. I know that may be early to ask  
4 you that because it may be on the tapes.

5 MS. BHALLA: It's not early, Your Honor.  
6 It's funny you asked me. I'm working on a trial  
7 brief right now, and I'm putting statements at issue  
8 in that brief so you can review them with the  
9 document numbers.

10 THE COURT: Are they going to be on the  
11 tapes? Is that what you're going to be -- things  
12 coming in on the tapes that you think are  
13 inconsistent?

14 MS. BHALLA: Yes, Your Honor.

15 THE COURT: And then you're going to tell  
16 me -- I think your situation might be different than  
17 Mr. Perez'.

18 MS. BHALLA: I believe that it is, Your  
19 Honor.

20 THE COURT: All right. Well, let's take a  
21 look at it.

22 MS. BHALLA: Thank you, Your Honor.

23 THE COURT: Anything else we need to  
24 discuss while we're waiting, Mr. Castellano?

25 MR. CASTELLANO: No, Your Honor.

1 THE COURT: Any of the defendants?

2 MS. DUNCAN: This may be a nonissue at  
3 this point.

4 THE COURT: I like nonissues.

5 MS. DUNCAN: It's Javier Molina's mother,  
6 I believe, was in the courtroom and getting pretty  
7 upset. She's not here now, but a juror or two  
8 looked at her while she was crying and covering her  
9 face. So I appreciate it -- her lawyer intervened  
10 and got her out of the courtroom. So I ask we  
11 continue to monitor that.

12 THE COURT: I see Mr. Lilly back there.  
13 It seems like you're trying, but keep it up.

14 MR. BECK: I think the marshals were  
15 watching pretty closely and did not see a juror look  
16 back at her.

17 MR. VILLA: Your Honor, I did see a juror  
18 look back. But I also spoke to Mr. O'Connell, and  
19 he's been very, very helpful in this regard. So we  
20 appreciate that.

21 THE COURT: All right. All rise.

22 (The jury entered the courtroom.)

23 THE COURT: All right. Everyone be  
24 seated.

25 Mr. Armenta, I'll remind you that you're

1 still under oath.

2 THE WITNESS: Okay, sir.

3 THE COURT: Mr. Castellano, if you wish to  
4 continue your examination of Mr. Armenta, you may do  
5 so at this time.

6 BY MR. CASTELLANO:

7 Q. Mr. Armenta, I'm going to show you  
8 Government's Exhibit 61. Looking at Exhibit 61, Mr.  
9 Armenta, does that look familiar to you?

10 A. Yes, it does.

11 Q. What is it or what does it look like?

12 A. It's the shank that I had that I used.

13 Q. And did you get a chance to look at the  
14 shank that Jerry Montoya used?

15 A. It's very similar to that one.

16 Q. And so you described earlier some kind of  
17 string and a handle?

18 A. Yes.

19 Q. Now, you mentioned before the break that  
20 you see the correction officers and the nurse on the  
21 outside of the door; is that correct?

22 A. Yes.

23 Q. What happens at the point that you finish  
24 assaulting Mr. Molina? What happens to your shank?

25 A. I walk towards the back of the -- towards



1 the bottom tier to the stairs that goes to the  
2 bottom tier. And Mr. Sanchez is right there in the  
3 vicinity. And he tells me to just throw the shank  
4 in the trash can.

5 Q. What did you think of that idea?

6 A. I really didn't. I just threw it in the  
7 trash can.

8 Q. What was your understanding of what Mr.  
9 Sanchez was supposed to do with that shank?

10 A. He was supposed to retrieve it from me and  
11 get rid of it. Hide it, throw it away, just get rid  
12 of it.

13 Q. And at this point do you pick up anything  
14 from the floor?

15 A. Yes, I do. This is after I walk back to  
16 Javier Molina. He was still standing up and I  
17 walked back up to him, and I again attacked him. I  
18 punched him in his face. And during the scuffle his  
19 silver chain came off of his neck. It had a cross  
20 on it. And it flew to the middle of the pod.

21 Q. Why did you hit Mr. Molina again?

22 A. Because he was still standing up. And I  
23 wasn't thinking clearly. I just went up to him  
24 again and hit him.

25 Q. What happened to that chain?

1 A. I ended up giving it to Jason Wright.

2 Q. Now, at this point did you have any blood  
3 on you?

4 A. Yes, I did.

5 Q. Did you try to wash off that blood?

6 A. I went up to the top tier and tried to go  
7 into the top tier shower and turn it on in an  
8 attempt to wash it off. But Mario Rodriguez was in  
9 there. And when I reached my hands in there, I  
10 bumped into him. He said, "Wait, what are you  
11 doing? What are you doing?"

12 I said, "Oh, shit. My bad."

13 I went back downstairs, went to the bottom  
14 tier shower and turned the shower on in there, and  
15 washed the blood off of my arms.

16 Q. Probably an obvious question, but why were  
17 you washing blood off you at that point?

18 A. Because it was on me and I wanted it off  
19 of me.

20 Q. What happens after you rinse off?

21 A. I start walking towards the stairs to go  
22 up to the day room. And the COs are already coming  
23 in at that point, and I'm walking up to my cell.  
24 And I get my stuff that I had left right there on  
25 the ledge for a shower. I started grabbing all that

1 stuff and going into my cell.

2 Q. And once you're in your cell, do all the  
3 inmates get locked down?

4 A. Yes.

5 Q. What's going through your mind at the  
6 point you're now sitting in your cell?

7 A. I'm tripping out. I'm scared. I'm  
8 thinking about what I just did, what my hands just  
9 did. Thinking about my children and the family that  
10 I have. I have pictures of my daughters and  
11 everybody up on my wall. So they're looking at me,  
12 I'm looking at them, and I just kept asking myself,  
13 "What did I do? What did I just do?"

14 Q. How did you feel?

15 A. I felt like a piece of shit. I felt like  
16 scum.

17 Q. And what were you thinking about Javier  
18 Molina at that time?

19 A. I thought, I just took somebody's daddy  
20 away, son, brother, husband, away, knowing that I'm  
21 the same person as him. I have brothers. I have a  
22 mom. I have a wife and children. And knowing that  
23 I just did that, that I just stabbed this man for an  
24 organization that I thought loved me and respected  
25 me, I felt like a piece of shit.

1 Q. How long do you stay in your cell before  
2 someone comes to get you?

3 A. About 20, 30 minutes before they start  
4 coming in, getting us out of our cells.

5 Q. So you have all that time to think about  
6 what you just did?

7 A. Yeah.

8 Q. What happens when someone comes to get  
9 you?

10 A. I cuff up. And that means, you know, they  
11 say, "Cuff up," you put your arms behind your back,  
12 and they escort you out of your cell into another  
13 cell, in another unit. But there wasn't one open  
14 for me, so they just left me out in the rec yard for  
15 a few hours.

16 Q. What are you doing during that time?

17 A. Again, I'm left to my thoughts. Left to  
18 my thoughts and my actions, and what I just left  
19 behind and what I just lost.

20 Q. At some point in time are you able to get  
21 to sleep that night?

22 A. Off and on. It wasn't a steady sleep. We  
23 were basically naked. They took all our clothes  
24 away from us. You would sit on the bed and nod out,  
25 but you'd wake up again. I would wake up again.

1 And sleep didn't come.

2 Q. At some point in time are you pulled out  
3 of your cell to be interviewed by State Police?

4 A. Yes.

5 Q. About what time was that?

6 A. I'm not sure exactly. I'd say 3:30, 4:00  
7 in the morning. It was pretty early.

8 Q. And are you taken to be interviewed?

9 A. Am I taken to be interviewed?

10 Q. Yes. Does anybody try to interview you  
11 that night?

12 A. Yes.

13 Q. What do you say during the interview?

14 A. I gave them nothing, really. I said that  
15 I was standing by the door when he was getting beat  
16 up. I tried to make it seem like I wasn't around or  
17 that I had nothing to do with it, to try to, I don't  
18 know, attempt to throw it off on someone else, I  
19 guess.

20 Q. Did you meet someone named Officer  
21 Palomares that night?

22 A. Yes, I did.

23 Q. And did you learn from him what happened  
24 to Javier Molina?

25 A. Yes, I did.

1 Q. What did you learn?

2 A. He told me that Mr. Molina had passed away  
3 to his wounds -- because of his wounds.

4 Q. All right. How did that make you feel?

5 A. It made me feel more like shit.

6 Q. At some point in time were you hoping that  
7 he would pull through and make it?

8 A. Oh, yeah, definitely. I didn't want him  
9 to die. Going back to when me and Mr. Montoya were  
10 sitting in front of my door, you know, he was  
11 worried and scared and, "What do we do," and you  
12 know, we were just having a real quick conversation  
13 about what to do and what we have to do. And I told  
14 him, I said, "Look, dude, whatever you do, try not  
15 to hit him in his chest. Try not to get that heart.  
16 If you hit him anywhere else, he has a really good  
17 chance of living, a really good chance. But if you  
18 hit him in the chest, in the heart, it's over."

19 And he got hit in the heart.

20 Q. What happens to you in the weeks following  
21 the Molina murder?

22 A. I'm written up. I'm locked in a cell.  
23 All my property is taken away from me. No phone  
24 calls, no mail. I get indicted. We don't get  
25 showers. We don't get no rec time for a couple of

1 weeks, at least.

2 Q. Now, when you say you're written up, are  
3 you written up by the prosecuting office or by the  
4 Corrections Department?

5 A. By the Corrections Department.

6 Q. What are you written up for?

7 A. Written up for murder, possession of a  
8 deadly weapon, conspiracy to commit murder, acts  
9 constituting a felony and tampering with evidence.

10 Q. Okay. And were those all New Mexico  
11 Corrections?

12 A. Policies and the procedures, yeah, the  
13 disciplinary procedures, policies.

14 Q. So is that part of an administrative  
15 process?

16 A. Yes.

17 Q. What happened to you just through the  
18 administrative process?

19 A. I got found guilty. I went to a hearing.  
20 I was found guilty of murder, tampering with  
21 evidence, and possession of deadly weapon. They  
22 took all the good time that I had received, which  
23 was about 10 months, and they also gave me about  
24 800-something days in disciplinary segregation, and  
25 about two years and three months.

1 Q. What is disciplinary segregation?

2 A. Lockdown 24/7, no privileges, no  
3 electronics, no visits, no phone, no commissary,  
4 stuff like that.

5 Q. Now, as part of the administration, the  
6 administrative process in the prison, are you  
7 allowed to have a representative represent you for  
8 those hearings?

9 A. At one point you were allowed to. But  
10 when I had requested somebody to represent me, they  
11 said it was not allowed.

12 Q. Who did you request?

13 A. I don't remember his name. They call him  
14 Baby G.

15 Q. Would it help to refresh your recollection  
16 to look at the documents? If you're able to look at  
17 the document who you requested, would that refresh  
18 your memory?

19 A. Yeah.

20 MR. CASTELLANO: May I approach the  
21 witness, Your Honor?

22 THE COURT: You may.

23 BY MR. CASTELLANO:

24 Q. I'm going to show you a document from one  
25 of your files. I'd ask you to review it quietly to



1 yourself, and I'll see if that helps refresh your  
2 recollection.

3 Sir, after having reviewed that document,  
4 does that refresh your recollection?

5 A. Yes, sir, it does.

6 Q. Who was the person you requested?

7 A. Jonathan Gomez.

8 Q. You said you knew him by another name?

9 A. Baby G.

10 Q. Who is Jonathan Gomez?

11 A. He is one of our brothers, SNM Gang  
12 member.

13 Q. And do you recall why you requested him to  
14 represent you?

15 A. He's savvy to the disciplinary policies  
16 and procedures. He actually told me to request him  
17 so he can help me in the process.

18 Q. And was Jonathan Gomez in your pod or one  
19 of the other SNM pods?

20 A. He was in disciplinary segregation when  
21 everything took place. When they relocated me, they  
22 put me in his pod, which was a disciplinary  
23 segregation pod.

24 Q. Now, in addition to the administrative  
25 process, were you charged criminally?

1 A. Yes, I was.

2 Q. Who charged you?

3 A. Dona Ana County, State of New Mexico.

4 Q. Do you remember about when it was that you  
5 were indicted by the DA's office?

6 A. March 20-something, I want to say.

7 Q. So the same month as the Molina murder?

8 A. Yeah.

9 Q. What were you charged with?

10 A. First-degree murder, conspiracy, tampering  
11 with evidence.

12 Q. Who else was charged with you?

13 A. Jerry Montoya and Mario Rodriguez.

14 Q. At that point in time, do you remember  
15 what charges Mario Rodriguez was facing?

16 A. Tampering with evidence, possession of a  
17 deadly weapon, and I believe that's it.

18 Q. Where were you housed during the time you  
19 were facing the state charges?

20 A. In 2-A, B pod.

21 Q. So is 2-A the same building or a building  
22 next door to 1-A pod where you were before?

23 A. 2-A is a few hundred -- well about 100  
24 yards away from 1-A.

25 Q. So it's still on the same grounds of the

1 Southern New Mexico Correctional Facility?

2 A. Yes.

3 Q. And about how long were you pending those  
4 charges?

5 A. The murder charges?

6 Q. Yes.

7 A. Well, since March of 2014, all the way  
8 till November of 2015. And then in December, we got  
9 the indictment, the federal indictment on that.

10 Q. So in December of 2015, is that when your  
11 state charges were dismissed and you were charged  
12 federally?

13 A. Yes.

14 Q. And at some point in time as these charges  
15 were pending, did anyone direct you to take the rap  
16 or the fall for these charges?

17 A. Yes.

18 Q. Who was that?

19 A. That was Mario Rodriguez.

20 Q. And why was that?

21 A. Because he blames me for getting him  
22 charged. He blames me that I'm the reason why he  
23 got charged. Because of the whole -- when I went to  
24 the shower, they think that I handed him one of the  
25 shanks, because they found a shank in the shower.

1 And that's what they were led to believe with the  
2 footage of the video and stuff.

3 Q. So is that the time like you just told the  
4 jury a little bit ago, you went upstairs to rinse  
5 off, and he was already in that shower?

6 A. Yes.

7 Q. What did you do in response to what Mario  
8 Rodriguez told you?

9 A. I kind of rebelled at first and, you know,  
10 he -- I knew I was already done. I knew that the  
11 cameras weren't covered; they caught me on camera.  
12 There's witnesses. I'm done. I'm finished.

13 So I decided that I was going to go along  
14 with it and take the rap for it and I was going to  
15 do my best to get him and Mr. Montoya off of the  
16 charges that they were charged for.

17 Q. At some point in time, as a result of this  
18 idea you had, did you write a letter to  
19 Mr. Montoya's attorney?

20 MS. JACKS: Objection, misstates the  
21 testimony. I think the testimony was the idea of  
22 Mario Rodriguez.

23 THE COURT: I'll let you get there on  
24 cross.

25 MR. CASTELLANO: We'll get there.

1 BY MR. CASTELLANO:

2 Q. So Mr. Rodriguez tells you to take the  
3 rap?

4 A. Yes.

5 Q. Does he tell you to write a letter?

6 A. No.

7 Q. Does he tell you how you're supposed to  
8 take the rap?

9 A. No. The only thing that we discussed was  
10 the story that we were going to say, and we -- you  
11 know, it didn't get fabricated overnight. It was a  
12 process of a few months, going out to rec with each  
13 other, talking about it, saying this, saying that,  
14 and seeing what would work. We finally came to the  
15 decision that this would work, what I said.

16 Q. Was that you and Mr. Rodriguez?

17 A. Me and Rodriguez and Montoya. Also Mr.  
18 Martinez, too. He was in the vicinity of the murder  
19 so he was there. He was a witness. And he was  
20 going to be able to verify what we had fabricated to  
21 say, yeah, that's what happened.

22 Q. At this point had Timothy Martinez been  
23 charged with any crime?

24 A. Not at that time. Mr. Rodriguez had, but  
25 not Mr. Martinez.

1 Q. And knowing that he was implicated, at  
2 least as far as you knew, was he then willing to  
3 help you out?

4 A. He was willing to help out Rodriguez and  
5 Montoya, get the charges off of them. And yeah, he  
6 was going with what I was saying. I mean, I  
7 wouldn't say helping me out, because I'm going to be  
8 taking the blame for it. But yes, he also wrote  
9 something for me, which I never sent to my attorney,  
10 because I was already feeling some kind of way about  
11 it, like what am I doing, you know.

12 Q. So about what time period is this when you  
13 guys are together and then at some point do you  
14 separate?

15 A. Well, me, Mr. Martinez, and Montoya stayed  
16 in Southern up until September 2014. And then we  
17 were transported to Santa Fe to the north, North  
18 facility.

19 Q. You say September of 2014?

20 A. Yes.

21 Q. What happens to Mr. Rodriguez?

22 A. He's already at the North. That's when  
23 everything came to I'm going to take the blame.  
24 It's your fault how I got charged. You're going to  
25 take the blame. You should take the blame. Are you

1 going to take the blame? You know, he was trying to  
2 make it sound like it was my idea, but I knew what  
3 he wanted.

4 Q. What did you eventually do in response to  
5 this idea?

6 A. I didn't really rebel at first. I did a  
7 little bit, but I didn't get much by it. I said,  
8 "Whatever. Okay. Let's do it. How do I do it?  
9 What do I got to say?"

10 Q. At some point did you write a letter to  
11 somebody?

12 A. Yes, I did.

13 Q. Who did you write a letter to?

14 A. I wrote a letter to Jerry Montoya to give  
15 to his attorney stating that he was not guilty of  
16 anything; that I was the one, I was the aggressor, I  
17 was the one that stabbed him. Mr. Molina had said  
18 something that got us into an argument. We got into  
19 a fight, knives were pulled out, and the outcome was  
20 that he was murdered.

21 MR. CASTELLANO: May I have a moment, Your  
22 Honor?

23 THE COURT: You may.

24 BY MR. CASTELLANO:

25 Q. Mr. Armenta, in a moment I'm going to show

1 you 7586. It has your date of birth at the bottom.

2 I'm going to cover that with the exhibit sticker.

3 MR. CASTELLANO: Actually, may I approach  
4 the witness, Your Honor?

5 THE COURT: You may.

6 BY MR. CASTELLANO:

7 Q. Mr. Armenta, I'm showing you what's going  
8 to be marked as Government's Exhibit 756. Do you  
9 recognize that document?

10 A. Yes, I do.

11 Q. At the bottom of the document is your date  
12 of birth listed?

13 A. Yes.

14 Q. And is there also a corrections number?

15 A. Yes.

16 Q. If I cover that up with the exhibit  
17 sticker, is there anything else that would be  
18 covered?

19 A. No.

20 Q. Mr. Armenta, I've previously showed you  
21 Government's Exhibit 756. Do you recognize that  
22 document?

23 A. Yes, I do.

24 Q. What is it?

25 A. It is the handwritten letter that I wrote



1 to Mr. Montoya for his attorney stating that Mr.  
2 Montoya was not guilty of anything; that he had  
3 no -- he had no involvement with what happened.

4 MR. CASTELLANO: Your Honor, I move the  
5 admission of Government's Exhibit 756.

6 THE COURT: Any objection?

7 MS. JACKS: No.

8 THE COURT: All right. Government's  
9 Exhibit 756 will be admitted into evidence.

10 (Government Exhibit 756 admitted.)

11 BY MR. CASTELLANO:

12 Q. I'm showing you this document up on the  
13 screen here. And with the exception of the name  
14 "Armenta" written in the corner and the sticker I've  
15 now put covering your date of birth and the  
16 corrections number, does this look like a copy of  
17 the letter that you wrote?

18 A. Yes, it is.

19 Q. And there appears to be a date at the top,  
20 January 3, 2015. Do you remember if you authored  
21 this letter on or about that date?

22 A. Yes, I did, I remember.

23 Q. Less than a year out from the Molina  
24 murder; is that correct?

25 A. Yes.

1 Q. Let me just have you read that to  
2 yourself, and I'll let the jury read it, as well.

3 At this point I'm going to ask you about a  
4 certain part. You state in this letter that  
5 somebody mentions your precious little daughter  
6 being mentally handicapped. Is that true?

7 A. Yes, she is.

8 Q. And what does she suffer from?

9 A. It's a genetic disease. It's called 22Q,  
10 DiGeorge Syndrome, a little similar to Down Syndrome  
11 but like, way, way worse.

12 Q. Now, when you wrote this letter, then, is  
13 that what you made as an excuse or the reason why  
14 you killed Javier Molina, that he basically insulted  
15 or threatened your daughter?

16 A. Well, it was something to that nature,  
17 because Mr. Molina would talk a lot about retarded  
18 children, Down Syndrome children in the pod, and  
19 he'd scream it out loud, and this and that, and we  
20 all came to that to say that because we knew that if  
21 anybody else was going to be a witness, they could  
22 testify to that; that, yeah, he was always saying  
23 about Down Syndrome, and this and that, and  
24 Creeper's daughter is Down Syndrome, she's mentally  
25 handicapped. So that was a good tool to use.

1 Q. Now, even though it says at the bottom, "I  
2 will swear to this written statement in open court  
3 and under oath," was this statement true, this  
4 letter?

5 A. At the time it was -- that's what we were  
6 trying to do. I was trying to take the blame.

7 Q. I know you said at the time you were going  
8 to say it was true, but is it actually true?

9 A. That I would come in court and swear under  
10 oath, that I would tell the truth?

11 Q. No, the facts contained within the letter,  
12 the story about --

13 A. Oh, no. My daughter is mentally  
14 handicapped. He never insulted my daughter, never  
15 insulted me formally to my face. Everything there  
16 is fabricated. We all came up with that story.

17 Q. And in this case, why try to help out  
18 Jerry Montoya?

19 A. He -- I don't know. I think I was doing  
20 an honorable brotherly thing. And he had been  
21 already in prison for 15, 16 years. I had a chance  
22 to be out there for six and start a family and pay  
23 bills and work and, you know, do that. It was a  
24 very wonderful experience for me, and he told me  
25 about his grandma, his kids that had missed him for

1 15 years, and you know, I kind of had a soft heart  
2 towards him. So I told him I'll do the best I can  
3 to help him. He deserves to be out there to make  
4 things right with his daughter and try to see his  
5 grandma before she passes away. Make some memories.  
6 I wanted to be a good guy, let him get out.

7 Q. And if you were able to help Mr. Montoya  
8 get his charges dismissed, would that get him home  
9 sooner to his family?

10 A. Yeah, it would have.

11 Q. Now, at some point in time after writing  
12 this letter, did you have a change of heart about  
13 following through with this story?

14 A. Yes, I did.

15 Q. How did that happen?

16 A. Well, I've already been feeling some kind  
17 of weird, like I'd already been talking to myself,  
18 thinking to go myself, What am I doing? What's  
19 going on here? You're willing to put your life on  
20 the line for an organization and for people that  
21 really didn't go out on a limb for you. Why are you  
22 doing this?

23 And I was at war with myself with that,  
24 because I had my pride, I had my honor. And this  
25 was something that I thought was very, very

1 important to me, which, in fact, it wasn't. And  
2 somebody that I am really close with, somebody that  
3 really cares about me and I care about him as well,  
4 Mr. Eric Duran, approached me one day through the  
5 heater vents, and asked me, "What's more important  
6 to you? What means more to you in your life?"

7 And I told him, "My daughters, getting  
8 back home, getting back to my family. That's number  
9 one. And that always will be number one."

10 Q. Where were you housed when you had this  
11 conversation with Eric Duran?

12 A. I was at the North facility in Santa Fe.  
13 We were in 3-A, unit 3-A, R pod.

14 Q. And do you remember about when this was?

15 A. February of 2015.

16 Q. Okay. So at this the point you have a  
17 heart-to-heart about what's important to you?

18 A. Yes, we do.

19 Q. And did you know Mr. Duran by any other  
20 names?

21 A. Yes.

22 Q. How did you know him?

23 A. Crazo.

24 Q. And after you had this conversation with  
25 him, did you have a change of heart?

1           A.     It took me a couple of weeks, but yes, I  
2     did.

3           Q.     Eventually, did you on your own or did  
4     Mr. Duran point you in the right direction in terms  
5     of who you could talk to?

6           A.     Mr. Duran made a phone call and let the  
7     right people know to pull me out of the pod and have  
8     a little chat with them to see if I was serious  
9     about what he had offered, and I did that.

10          Q.     Who did you meet with?

11          A.     I met with STIU Captain Sergio Sapien and  
12     STIU Officer Chris Cupit and another lady that  
13     didn't identify herself. She had an STIU jacket on.  
14     I figured she was STIU, so I just left it at that.

15          Q.     Do you know who she was?

16          A.     No.

17          Q.     And after meeting with them, did you then  
18     meet with anybody from the district attorney's  
19     office?

20          A.     Not right away. I was waiting. I was  
21     waiting for the time when they were going to come or  
22     call me down or whatever. We had a scheduled court  
23     date in June, so me and Mr. Rodriguez and Montoya  
24     all got transported down to Southern where we were  
25     housed again in 1-A where the murder took place.

1 Not in the pod, but in -- I was in yellow pod, and  
2 Rodriguez and Montoya were in green pod. I didn't  
3 speak with the DA or Mr. Palomares until August of  
4 2015.

5 Q. And you said Palomares. Is that the same  
6 New Mexico State officer who investigated the case?

7 A. Yes, he's the lead detective, I believe.

8 Q. What happened when you met with them?

9 A. I told him -- well, wait, wait, wait. I  
10 talked to Mr. Montoya's lawyer, the district  
11 attorney, and my attorney. That's when I first  
12 disclosed all the information of how everything  
13 happened and what went down. So it was actually Mr.  
14 Palomares, I didn't talk to him until the second  
15 interview, and that was with the U.S. Attorney and  
16 the FBI and STIU members and the State Police.

17 Q. Do you remember when that was?

18 A. That was in September.

19 Q. Of what?

20 A. 2015. The first interview happened in  
21 August of 2015.

22 Q. September of 2015. And are you aware that  
23 this case was charged federally in December of 2015?

24 A. Yes.

25 Q. Okay. So you met with members of the

1 federal prosecution team even before this case was  
2 indicted?

3 A. Yes.

4 Q. And at that point did you disclose what  
5 really happened?

6 A. Yes.

7 Q. At some point in time did you try sending  
8 a letter to Mr. Montoya telling him that you were  
9 going to tell the truth?

10 A. Yes. I wrote that letter just after the  
11 interview with the district attorney and the  
12 attorneys.

13 MR. CASTELLANO: May I approach the  
14 witness, Your Honor?

15 THE COURT: You may.

16 BY MR. CASTELLANO:

17 Q. I'm not going to introduce this yet. I'm  
18 just going to show it to you. This is Government's  
19 Exhibit 75 for identification. I'll have you look  
20 that over and see if you recognize it.

21 A. I do recognize it. It's my handwriting.

22 Q. I'll show you the second page, as well.

23 A. Yes.

24 Q. Mr. Armenta, having looked at this letter,  
25 do you recognize it?



1 A. Yes, I do.

2 Q. Did you author this letter?

3 A. Yes, I did.

4 Q. For what purpose?

5 A. To try to help Jerry Montoya again. To  
6 get him to come clean about what happened so that he  
7 can help himself, instead of me helping him to get  
8 out of it.

9 MR. CASTELLANO: Your Honor, at this time,  
10 I move the admission of Government's Exhibit 757.

11 THE COURT: Any objection?

12 MS. JACKS: No.

13 MS. DUNCAN: No, Your Honor.

14 THE COURT: Not hearing any objection,  
15 Government's Exhibit 757 will be admitted into  
16 evidence.

17 (Government Exhibit 757 admitted.)

18 BY MR. CASTELLANO:

19 Q. Mr. Armenta, I'm going to leave that up  
20 there for a second so the members of the jury can  
21 see it as well.

22 While everybody is reading that, if you  
23 recall, approximately when did you author this  
24 letter?

25 A. September, August 2015. It was right at

1 the end of August or the beginning of September.

2 Q. And why do you think it was during that  
3 time period?

4 A. Because I was in Dona Ana County jail to  
5 discuss with Mr. Montoya's attorney. The reason I  
6 was down there was to give him the story that we had  
7 fabricated to try and clear Mr. Montoya's name. And  
8 I had spoke with my attorney before we were talking  
9 to the district attorney and Mr. Montoya's attorney,  
10 and I discussed with him what I wanted to do. I  
11 actually sent a letter to my attorney a week before  
12 that interview and let him know what I wanted to do.

13 Q. At the top it says, "By the time you  
14 receive this letter, you will already know what I  
15 did." And at that point what you have done?

16 A. I would already have disclosed information  
17 on the murder, what happened, what he did, what  
18 everybody did, their part.

19 Q. Is that the part where you say, "I had to  
20 tell the truth about the way it all went down"?

21 A. Yes.

22 Q. At the bottom, you make a comment at the  
23 very bottom, "And if it weren't for the amore of  
24 this onda, I would have had some time with her."

25 What are you saying, if it weren't for the

1 love of this onda, you'd have time with her?

2 A. With my daughter.

3 Q. Were you being sarcastic there?

4 A. What happened was, I found out later that  
5 I had misplaced a couple of words on there because  
6 my daughter had had some complications. She had a  
7 surgery around the time I was in Dona Ana County,  
8 and she almost died. They took her left lung out.  
9 The one that's mentally handicapped, they took her  
10 left lung out, and she almost died on us. And she  
11 was in a coma for, like, a long time. They were  
12 expecting her to die, pass away. She hadn't died.  
13 What it says right there, that she did, but what I  
14 meant to say was that Cheryl Ann almost passed away.  
15 Knowing that she was in a coma and she might die --  
16 that's what I meant by the amore of this onda.

17 Q. What does "amore" mean?

18 A. Love.

19 Q. What is the "onda"?

20 A. SNM, like a gang.

21 Q. Turning to the second page of that  
22 exhibit, you're asking him to think about "what's  
23 more important to you, dog. I love you, man." What  
24 are you talking about there?

25 A. I'm talking about his daughter, his son,

1 his grandma, his mom.

2 Q. And at the very bottom, what's the  
3 question you're asking?

4 A. "Am I gonna go down for some bullshit."

5 Q. And what is that?

6 A. Am I going to go down for these people's  
7 bullshit for what they wanted us to do, they made us  
8 do?

9 Q. Now, were you ever made aware of whether  
10 or not this letter reached Mr. Montoya?

11 A. No, I wasn't aware until STIU Chris Cupit  
12 contacted me on the telephone, and he asked me if my  
13 daughter passed away. And I was like, "What?"

14 "Because they got this letter and this and  
15 that, and it says she died."

16 I said, "No, she almost passed away."

17 That's when I knew he didn't receive it,  
18 because he told me, "I can't give him this. We  
19 can't let him have it."

20 Q. In other words, was it intercepted before  
21 it reached him?

22 A. Yes.

23 Q. By corrections officials?

24 A. Yes.

25 Q. I want to discuss with you a certain point

1 in time when you were housed with Mr. Herrera in  
2 approximately June of 2015, if you were housed with  
3 him or near him?

4 A. I was right next door to him.

5 Q. Did you have a discussion with him about  
6 the order on Javier Molina?

7 A. Yes, I did.

8 Q. What did he tell you about his  
9 involvement?

10 A. He had the say-so, him and Dan. They all  
11 confirmed that the paperwork was legit and that it  
12 was okay to go ahead and move forward with Javier's  
13 murder. And I asked him, "Whose decision was it to  
14 send me and Plazz?"

15 And he told me it was his.

16 Q. Why?

17 A. Because we hadn't earned our bones yet.  
18 Send someone who hasn't earned their bones yet,  
19 Creeper and Plazz.

20 MS. JACKS: Your Honor, we'd request a  
21 limiting instruction for this testimony.

22 THE COURT: This will be used just against  
23 Mr. Sanchez; no one else.

24 MS. JACKS: Excuse me, Your Honor. Those  
25 were statements of Mr. Herrera, so it's not to be

1 used against Sanchez.

2 THE COURT: I understand. I understand.  
3 It's just statements of Mr. Herrera, and you can  
4 only consider them in conjunction with considering  
5 the charges against Mr. Herrera, and not any of the  
6 other defendants.

7 BY MR. CASTELLANO:

8 Q. Having had the discussion with Mr. Herrera  
9 at that time, did you understand why or how it was  
10 important that he was involved with the order?

11 A. Say that again, please?

12 Q. Why was it important that he was part of  
13 order to hit Molina?

14 A. Because he didn't know there's higher-ups  
15 that say, "Here's paperwork, kill this person."

16 MR. MAYNARD: Objection, speculation, Your  
17 Honor.

18 THE COURT: Well, lay a foundation.

19 BY MR. CASTELLANO:

20 Q. At this point when you were having a  
21 discussion with Mr. Herrera, did you understand his  
22 position in the SNM?

23 A. Yes.

24 Q. What kind of position?

25 A. He had influence. He had clout. He could

1 give orders. I mean, not on his own. He can't just  
2 say, "Hey, by myself, I want to go kill that  
3 person."

4 He would need paperwork to back it up. He  
5 would need the say-so of other SNM leaders or  
6 spokespersons to confirm that it's legit.

7 Q. When you having that discussion with him,  
8 were you aware whether or not he had any leadership  
9 role in the SNM?

10 A. Not major leadership, but he had the  
11 llaves, the keys. He could make decisions like  
12 that.

13 Q. After having sat down with the Government  
14 before the case was indicted, you later agreed to  
15 plead guilty to your federal charges?

16 A. Yes.

17 Q. And if you recall, what did you plead  
18 guilty to?

19 A. Murder. On the federal side or the state  
20 side?

21 Q. On the federal side.

22 A. Yes, first-degree murder.

23 Q. Did you enter into a plea agreement with  
24 the Government as part of that deal?

25 A. Say that again.

1 Q. Did you enter into a plea agreement with  
2 the Government.

3 A. Yes, I did.

4 MR. CASTELLANO: At this time, Your Honor,  
5 I'll move the admission of 678 and 679. They should  
6 be the plea agreement and the addendum to the plea  
7 agreement.

8 THE COURT: Any objection from the  
9 defendants?

10 Not hearing any objection, Government's  
11 Exhibits 678 and 679 will be admitted into evidence.

12 (Government Exhibits 678 and 679  
13 admitted.)

14 BY MR. CASTELLANO:

15 Q. Mr. Armenta, let me show you Government's  
16 Exhibit 678. On this document can you tell when you  
17 pled guilty?

18 A. December of 2016.

19 Q. Let me turn your attention to the second  
20 page of that plea agreement. When you pled guilty,  
21 did you understand that the conspiracy charges count  
22 6 -- I'm underlining it here for you, conspiracy to  
23 murder -- did you understand that the maximum  
24 penalty for that charge was 10 years?

25 A. Yes.



1 Q. And you say -- did you plead guilty to  
2 conspiring to commit this crime?

3 A. Yes, I believe I did, yeah.

4 Q. And as part of that conspiracy, who else  
5 was involved with you with that murder?

6 A. That would be Jerry Montoya, Mario  
7 Rodriguez, Daniel Sanchez. I believe that's it. I  
8 think Ray Baca, I think, might have been on that.

9 Q. You mentioned another name a few minutes  
10 ago, someone else who ordered the hit. Do you  
11 remember who that was?

12 A. Who ordered the --

13 MS. DUNCAN: Your Honor, I object, calling  
14 for hearsay.

15 THE COURT: Well, lay some foundation.

16 MR. CASTELLANO: I was actually just  
17 referring to his earlier testimony about a  
18 conversation he had with Mr. Herrera, Your Honor.

19 A. Mr. Herrera. Okay. Had it -- I'm sorry.

20 THE COURT: Well, if it's coming in around  
21 Mr. Herrera, I'll allow it, but a continuing  
22 limiting instruction applies. This can be used only  
23 against Mr. Herrera.

24 BY MR. CASTELLANO:

25 Q. So as part of the conspiracy, does that

1 include Mr. Herrera who told you that he also  
2 ordered that the hit happen?

3 A. Yeah, he's the one that ordered for me and  
4 Plazi to do it, to send us to do the murder.

5 Q. Now, as part of the murder, Count 7, did  
6 you understand that you were pleading to a term of  
7 life in prison?

8 A. Yes.

9 Q. Now, if we can turn to the next page,  
10 please, and the next page. Now, as part of your  
11 plea agreement, were you required to admit to  
12 certain facts that showed the judge who took your  
13 guilty plea that you were guilty?

14 A. Yes.

15 Q. For purposes here, those facts aren't  
16 here, because the jury needs to hear from you and  
17 not from this document. So is this why you're  
18 testifying today?

19 A. Yes, sir.

20 Q. And in addition, did you also admit to  
21 certain facts in your plea agreement?

22 A. Yes.

23 Q. Let's turn to the next page. And the  
24 next. Let's turn to the next page. All right.  
25 Also as part of this plea agreement on page 7, did

1 you understand that you're waiving your appellate  
2 rights when you pled guilty?

3 A. Yes.

4 Q. And did you understand, then, that once  
5 you got sentenced, unless your attorney was  
6 ineffective, that that was your sentence?

7 A. Yes.

8 Q. Without any right to appeal?

9 A. Yes.

10 Q. Let's turn to the next page, please, and  
11 the next. At the bottom of the document, then, do  
12 we also see your signature at the bottom of the  
13 page?

14 A. Yes.

15 Q. Let me turn your attention to the next  
16 document, document 679. Do you remember what this  
17 document was? I'll give you a chance to read it.

18 As part of your plea agreement, did you  
19 then agree to cooperate with the United States to  
20 give truthful and complete information?

21 A. Yes, I did.

22 Q. Did you understand that you were not  
23 allowed to falsely implicate other people in the  
24 commission of the crime?

25 A. Yes.

1 Q. Or minimize anyone's involvement?

2 A. Yes.

3 Q. Did you also agree in paragraph 3 to  
4 testify truthfully in any state proceedings, federal  
5 proceedings, or even grand jury proceedings?

6 A. Yes.

7 Q. Turning to the next page of that document,  
8 did you understand from paragraph 6 that if you  
9 cooperate with the Government, that the Government  
10 may move to ask the Court to reduce your sentence?

11 A. Yes.

12 Q. Did you also understand that if the  
13 Government moves for what's called a downward  
14 departure to reduce your sentence, that ultimately  
15 the sentence is within this judge's discretion?

16 A. Yes.

17 Q. So ultimately who is going to decide your  
18 sentence?

19 A. Your Honor Browning.

20 Q. When you were pending in this case, did  
21 you receive what's called a tablet that had the  
22 discovery in this case?

23 A. Yes, I did.

24 Q. What types of information generally were  
25 on that tablet?

1           A.    A lot of information from a lot of other  
2 cases of my own, stuff I don't know about, stuff I  
3 didn't know happened.

4           Q.    In addition to the discovery which talked  
5 about the Molina murder, then was there information  
6 about other murders in this case and other parts of  
7 the investigation?

8           A.    Yes.

9           Q.    And would you use that tablet to review  
10 discovery from time to time?

11          A.    Yes.

12          Q.    How much did you use it?

13          A.    Almost every day I was reading it.

14          Q.    And eventually what happened to that  
15 tablet?

16          A.    It was taken, confiscated.

17          Q.    All right. Why?

18          A.    Because it was compromised.

19          Q.    How did that happen?

20          A.    One of the cooperators found a way to  
21 reset it, and we reset our tablets, playing games  
22 with them, taking pictures, and stuff like that.

23          Q.    In which facility were you at that time?

24          A.    This was first at the PNM North facility  
25 in Santa Fe.

1 Q. While this case has been pending, have you  
2 changed jail or prison facilities?

3 A. Yes.

4 Q. Have you been moved around the state?

5 A. A number of times, yes.

6 Q. Was the tablet reset at PNM North or  
7 somewhere else?

8 A. It was reset at PNM North.

9 Q. What were you able to do with it once it  
10 was reset?

11 A. Go into all the little things that you  
12 could do with a computer, play the games, take  
13 pictures, videos, all the Windows stuff, like write,  
14 type, that type of stuff.

15 Q. And once you reset it, did the discovery  
16 disappear from the tablet?

17 A. Yes, it did.

18 Q. Were you able to review the discovery  
19 anymore at that point?

20 A. No.

21 Q. About when was it that the tablet was  
22 compromised?

23 A. January 2017.

24 Q. So have you been able in the last year to  
25 review the discovery on that tablet?

1           A.     Just from what I have from the state case.  
2     Only on my case.

3           Q.     Now, did you understand that once it was  
4     reset, that you were misusing that tablet?

5           A.     Yes.

6           Q.     What types of things? You told us some,  
7     but what other things were you doing with that?

8           A.     Well, when we got to -- we were  
9     transferred over to Sandoval County jail. About a  
10    couple weeks after we got there, we received our  
11    tablets, and the Wi-Fi came on.

12           MS. FOX-YOUNG: Your Honor, can we take a  
13    brief break for Mr. Perez?

14           THE COURT: All right. We'll be in recess  
15    for about 15 minutes. All rise.

16           (The jury left the courtroom.)

17           THE COURT: Ms. Bhalla, I'm probably  
18    repeating myself, but I'm not interested in just  
19    additional statements. They've got to be prior  
20    inconsistent statements. Okay? So you've got to  
21    link it up with the statement that you're saying  
22    it's inconsistent with, okay? Do you understand?  
23    It can't just be additional statements. It's got be  
24    inconsistent statements.

25           MS. BHALLA: Okay. Well, and I think, to

1 be fair, Your Honor, part of it depends on what they  
2 say when they take the stand.

3 THE COURT: Sure. Sure. When you and I  
4 are talking?

5 MS. BHALLA: Yes.

6 THE COURT: Remember, I'm probably going  
7 to exclude just additional statements.

8 MS. BHALLA: Oh, I understand.

9 THE COURT: So you've got to link it up  
10 and tell me where it's inconsistent.

11 MS. BHALLA: I understand.

12 THE COURT: If that's where you're going.

13 MR. VILLA: I'm sorry to interrupt this,  
14 Your Honor, but I believe Mr. Perez suffered a minor  
15 seizure. Ms. Fox-Young observed his eyes rolling  
16 around. He was nonresponsive to me. This is  
17 consistent -- what we've been told by our medical  
18 doctor through his records. He suffers from minor  
19 seizures that then it takes an hour or two for him  
20 to recover from those. He's very disoriented and  
21 dazed right now, and I think we need to give him  
22 some time. I think -- I'm not sure he's oriented  
23 right now.

24 THE COURT: All right. Well, we'll take a  
25 break for a while.



1           We did receive a note from juror number  
2 17, Anastasia Wolf. She noticed on the plea  
3 agreement it was signed by Damon Martinez. And she  
4 says, "I know him." So I'll have this marked as an  
5 exhibit. It's not raising too much issue with me.  
6 But if it does with anybody else, let me know.

7           MR. CASTELLANO: It does, Your Honor. He  
8 didn't sign it. I'll put it up there a little  
9 closer. He's the U.S. Attorney on all the documents  
10 when he was the U.S. attorney, but it's the standard  
11 signature line.

12           THE COURT: Okay. If anybody has any  
13 concern, let me know. Otherwise, we'll just keep  
14 moving.

15           MR. VILLA: And Your Honor, I think the  
16 marshals agree that he's very disoriented right now.  
17 I think someone needs to check on him, even if it's  
18 an EMT.

19           THE COURT: All right. Let the marshals  
20 take a look at him, make a call on that.

21           All right. We'll be in recess for about  
22 15 minutes, then we will see where we are.

23           (The Court stood in recess.)

24           THE COURT: All right. Let's go on the  
25 record. Deputy Mickendrow, if you want to give us a

1 report of what occurred maybe in the courtroom, and  
2 then what happened afterwards.

3 MR. MICKENDROW: Good afternoon. Deputy  
4 Mickendrow. So we brought Mr. Perez to the Memorial  
5 Medical Center via ambulance. In the ambulance ride  
6 he was provided oxygen. His O2 or oxygen levels  
7 were anywhere between 92 and 97; 97 being a good  
8 number, 92 not being so good.

9 Once we got to the ER, the doctor reviewed  
10 Mr. Perez and stated that one of the possible side  
11 effects of the Theraflu which he was prescribed last  
12 week may contribute to some of the symptoms that are  
13 occurring right now. This deals with a chemical  
14 called ketamine. I'm not sure what that is. They  
15 did draw blood. The doctor informed me that if it  
16 was ketamine-induced, that there should also be  
17 other symptoms from the blood draw. However, the  
18 blood draw came back clean.

19 He was provided Ibuprofen at the medical  
20 facility with water. Nothing else was administered  
21 to him. The blood results were sent back over to  
22 Dona Ana County Detention Center. The ketamine  
23 levels, however, can't be evaluated for a number of  
24 days. It's about two days, I believe. So once that  
25 happens, I'll be able to call Dona Ana, probably on

1 Tuesday, to find out if the ketamine levels had  
2 spiked or not.

3 In addition, what we did find out from the  
4 nurse was that it's not -- what she informed me is  
5 it's not possible to identify whether it was a  
6 seizure or not through blood draw. So that was  
7 erroneous information from the EMT.

8 We have received -- my supervisor just  
9 told me that he just got off the phone with Jason  
10 Duran, who is the head of the medical over at Dona  
11 Ana County Detention Center, and Mr. Duran stated  
12 that Mr. Perez refused his insulin yesterday. And  
13 over the past three days, his orders from commissary  
14 have been nothing but high-sugar items. Mr. Duran  
15 did not say one way or the other, but he did make a  
16 statement that it's possible that the high sugar is  
17 leading to some of these symptoms also.

18 THE COURT: Did I understand that when the  
19 EMT looked at him, they did not think he had a  
20 seizure?

21 MR. MICKENDROW: That is correct. On both  
22 days, the EMTs -- on Tuesday, the EMT didn't believe  
23 he had a seizure. And today the EMT did not believe  
24 he had a seizure.

25 THE COURT: And when he left here

1 yesterday, did he eat last night?

2 MR. MICKENDROW: From speaking with Mr.  
3 Perez, he had a Pop-Tart last night, and he refused  
4 his food this morning.

5 THE COURT: So he didn't have any  
6 breakfast when he got here this morning?

7 MR. MICKENDROW: He had no breakfast this  
8 morning. And I don't know if the deputies stopped  
9 for lunch with him. But I don't believe he's had  
10 anything to eat at all up to this point.

11 THE COURT: Do you recall anything else  
12 the doctors, the EMT, or the nurses said?

13 MR. MICKENDROW: We asked the medical  
14 facility to do a full workup. The only thing they  
15 indicated to me was that the blood would be the  
16 greatest indicator to find out if there is anything  
17 wrong with him. And since it came back clean, he  
18 was released immediately. When I was texting, the  
19 group text that I had sent out, which included the  
20 Court, JoAnn Standridge, the AUSA, Ryan Villa,  
21 defense, and my supervisor, I was under the  
22 assumption the blood work would come back with  
23 indicators, therefore requiring greater tests. But  
24 when it came back clean, they released him  
25 immediately.

1 THE COURT: Because if I understood the  
2 developments today, they were going to do a full  
3 workup or full treatment. As soon as they got the  
4 clean blood test, they decided that was unnecessary?

5 MR. MICKENDROW: That is correct. In  
6 fact, I requested a full workup on behalf of the  
7 Marshal Service and on behalf of Mr. Perez. When I  
8 went in there, I spoke with both the nurse and the  
9 doctor, letting them know that we would really like  
10 to find out what's going on here, what's causing  
11 these incidents. And again, I can't speak to what  
12 their thoughts are. But all I know is, based on the  
13 blood work, they released him immediately.

14 THE COURT: And were they planning to do  
15 chest work, and then decided because the blood work  
16 was clear to not do it?

17 MR. MICKENDROW: When I heard the doctors  
18 speaking to the nurses, I did hear him mention a  
19 number of other tests to be done based on the blood  
20 work. And since those tests were not done, I can  
21 only assume that the doctor was assuming the blood  
22 work would come back. But these are all assumptions  
23 on my part.

24 THE COURT: Did they give any indication  
25 as to whether they believe that Mr. Perez is sick,

1 really sick, or feigning or faking these?

2 MR. MICKENDROW: I did not receive a  
3 verbal response one way or the other indicating  
4 that. And I'd prefer not going into impressions on  
5 that, simply because I may be wrong.

6 THE COURT: All right. If they didn't say  
7 it, then we don't need to go there.

8 All right. Anything else, Deputy?

9 MR. MICKENDROW: No. I will attempt to  
10 see if maybe the doctor or the nurse could  
11 correspond with the Court. Would phone work for the  
12 Court?

13 THE COURT: Well, whatever. If they have  
14 something we can put on the record, that would be  
15 great. But if they can shoot an email that I can  
16 share with everybody, or if they want to call in,  
17 we'll take a break and put them on the phone.

18 MR. MICKENDROW: And particularly, my  
19 understanding is you're wanting to know if these  
20 symptoms are real or maybe not so real?

21 THE COURT: I just wondered if they  
22 commented on that in any way.

23 MR. MICKENDROW: All right.

24 THE COURT: Thank you, Deputy. I  
25 appreciate it.

1 MS. FOX-YOUNG: Your Honor, may I make a  
2 record?

3 THE COURT: You may. You did not go to  
4 the hospital and speak to the doctors?

5 MS. FOX-YOUNG: I was not permitted to,  
6 Your Honor.

7 THE COURT: You didn't go over and speak  
8 to the nurses?

9 MS. FOX-YOUNG: I spoke to the EMTs.

10 THE COURT: Okay. But not to the nurses?

11 MS. FOX-YOUNG: I stayed here in the  
12 court, Your Honor. I didn't go to the hospital. I  
13 couldn't go with the transport. And here's what I  
14 observed before I asked the Court if it could take a  
15 break. I observed Mr. Perez' eyes -- it's a little  
16 bit difficult to describe, but going in a rolling  
17 fashion, a circular fashion. The Court seems to be  
18 implying that perhaps Mr. Perez is faking these  
19 incidents.

20 THE COURT: I just asked if the doctors  
21 and nurses had commented in any way on that.

22 MS. FOX-YOUNG: Your Honor, I don't think  
23 it's physically possible for a person to fake what I  
24 saw. This is the second time this week that I've  
25 seen Mr. Perez have a similar episode.

1 As the Court knows, Mr. Villa and I have  
2 spent many hours with Mr. Perez; Mr. Villa beginning  
3 in the spring of 2016. We know him very well.  
4 We've spent many hours in court with him. Never  
5 seen him have this kind of medical episode. He has  
6 an underlying seizure disorder, and as we discussed  
7 with the Court, we've been trying to get him to see  
8 a neurologist, because this has been ongoing and  
9 worsening.

10 THE COURT: It's very difficult in New  
11 Mexico to see a neurologist. Many people in  
12 Albuquerque have to wait months to get appointments.  
13 It's just a very difficult situation to get a  
14 neurologist in New Mexico.

15 MS. FOX-YOUNG: And so he hasn't seen one.

16 In any event, I witnessed him have this  
17 episode. Mr. Villa and I -- particularly Mr. Villa,  
18 because he's right next to him, tried to communicate  
19 with him. And he just seemed to be out for a short  
20 period of time. He had been relatively  
21 uncommunicative, and then he was just out. Mr.  
22 Villa was calling his name, talking to him. And he  
23 wasn't out for a long time, but once we were able to  
24 start talking to him, he did seem disoriented and  
25 quite confused. In fact, one of the marshals



1 remarked to me that he was clearly disoriented. And  
2 this was once the break began.

3 The EMTs came in. And one of the EMTs,  
4 who sort of summarized the situation before Mr.  
5 Perez was transported, said, "We can't tell whether  
6 or not he's had a seizure. We're just eyeballing  
7 him."

8 They looked at him for 20 seconds. They  
9 said, "We don't know what happened. But, you know,  
10 he ought to go to the hospital, if that's what you  
11 want to do."

12 And Deputy Mickendrow said, "We do."

13 They didn't make any diagnosis or further  
14 evaluation.

15 As the Court knows, Mr. Perez has a severe  
16 seizure disorder -- we'll incorporate the medical  
17 testimony from the suppression hearing -- he has a  
18 bad lung infection. He's just now begun the  
19 antibiotics that were ordered on Monday, when he  
20 went to the ER. He has diabetes. His seizures  
21 manifest as severe tonic-clonic seizures, like the  
22 eight-day continuous seizure he had in 2013, and  
23 also as subtle seizures. And there was expert  
24 testimony on that at the suppression hearing. We  
25 know that he continues to have them regularly.

1           And I'll just submit to the Court, Mr.  
2       Perez has not been able to assist us. And this  
3       isn't always true. He has periods of lucidity over  
4       the last few days. And at times we are able to pass  
5       notes with him and communicate with him, and he does  
6       seem to be absorbing what's going on in the  
7       proceedings. But he also has significant periods  
8       where he is not. And we can tell he is not because  
9       he's not communicating, or not communicating in his  
10      normal, quick way with us. We -- you know, we just  
11      are not able to have meaningful discussions and come  
12      to resolutions with regard to some of the testimony  
13      and trial strategy.

14           I'll also note that Memorial Hospital is  
15      the same hospital that Mr. Perez went to in 2012,  
16      when he was complaining of very severe abdominal  
17      issues; in fact, he was throwing up almost nonstop,  
18      including fecal matter, and had what turned out to  
19      be a bowel obstruction. And Memorial Hospital sent  
20      him back to the prison and missed the bowel  
21      obstruction, and left him. He was covered in vomit  
22      when he finally ended up at UNMH.

23           And this is important, Your Honor, because  
24      he ended up having an eight-day continuous seizure  
25      and he almost died. So we raise this with the

1 Court, one, because Mr. Perez has a due process  
2 right to be fully engaged in his trial. And I don't  
3 think that he is competent for long periods of time.  
4 But also because we're very worried about his  
5 health. He has a lot of underlying conditions, and  
6 he's very susceptible to getting worse. And we want  
7 the Court to know that we're concerned about him.

8 I appreciate the Court allowing him to go  
9 to the hospital. But it is a pretty serious  
10 situation. And on that basis, we would again ask  
11 that Mr. Perez be mistried, and he be severed from  
12 this case.

13 THE COURT: All right. Those requests are  
14 denied. All rise.

15 MS. FOX-YOUNG: While we're waiting for  
16 the jury, I just want to let the Court know that Mr.  
17 Perez says he did not refuse any insulin, for the  
18 record.

19 THE DEFENDANT: Why would I?

20 MR. VILLA: Rudy.

21 (The jury entered the courtroom.)

22 THE COURT: Mr. Armenta, I'll remind you  
23 that you're still under oath.

24 THE WITNESS: Yes.

25 THE COURT: And Mr. Castellano, if you

1 wish to continue your direct examination, you may do  
2 so at this time.

3 MR. CASTELLANO: Thank you, Your Honor.

4 THE COURT: Mr. Castellano.

5 BY MR. CASTELLANO:

6 Q. Mr. Armenta, before the break I was asking  
7 you about your tablet, and you had mentioned that  
8 you had somehow tampered with it or reset it; is  
9 that correct?

10 A. Yes, sir.

11 Q. And at that point, then, did all the  
12 discovery that was on the tablet disappear?

13 A. Yes.

14 Q. Once that happened and it was discovered  
15 that the tablet was tampered with, did you get it  
16 back?

17 A. We've had it -- we had it for -- up until  
18 April of 2017 and, then it was taken and we haven't  
19 got it back since.

20 Q. So April 2017 was the last time you had  
21 access to the tablet?

22 A. Yes, sir.

23 Q. You also mentioned, I think, when you went  
24 to Sandoval County, you learned that you had  
25 internet access; is that correct?

1 A. Yes.

2 Q. And once you had internet access to the  
3 tablet, what types of things were you doing with it?

4 A. We were doing a lot of different things,  
5 looking up on Facebook, music, music videos,  
6 pornography. Just whatever that was interesting or  
7 whatever. Google.

8 Q. Did you have authority or permission to  
9 use the tablet in that way?

10 A. No, we did not. I did not.

11 Q. Also while at Sandoval County Detention  
12 Center, can you tell the members of the jury whether  
13 you used drugs over there?

14 A. Yes, I did.

15 Q. And did you also attempt to gain access to  
16 drugs through any of the staff over there?

17 A. No.

18 MR. CASTELLANO: May I approach, Your  
19 Honor?

20 THE COURT: You may.

21 BY MR. CASTELLANO:

22 Q. Mr. Armenta, let me show you what's been  
23 marked for identification as Government's Exhibit  
24 758.

25 A. Okay.

1 Q. Do you remember that document?

2 A. Yes.

3 Q. What is the document I showed you?

4 A. It is a kite, a handwritten note, what we  
5 call them kites, notes to the female staff, inmates  
6 in the kitchen, that worked in the kitchen. And it  
7 reads -- well, I wrote and asked them if they can  
8 hook us up, hook me up with some Suboxone.

9 Q. And did you author this note or this kite?

10 A. Yes, I did.

11 MR. CASTELLANO: Your Honor, at this time  
12 I move the admission of Government's Exhibit 758.

13 THE COURT: Any objection?

14 MS. DUNCAN: No, Your Honor.

15 THE COURT: Not hearing any objection,  
16 Government's Exhibit 758 will be admitted into  
17 evidence.

18 (Government Exhibit 758 admitted.)

19 MR. CASTELLANO: With the Court's  
20 permission, I'll publish this to the jury.

21 THE COURT: You may.

22 BY MR. CASTELLANO:

23 Q. Mr. Armenta, let me ask you this. In this  
24 document do you use the word "Suboxone"?

25 A. Yes. Not the word "Suboxone," but "sub,"

1 short for Suboxone.

2 Q. So I'm going to highlight a certain  
3 section. It says, "You want to cop some subs?"

4 A. Yes.

5 Q. Why do you use the word "subs," as opposed  
6 to just saying: "Can you get us Suboxone?"

7 A. That's what I talk -- most of us, that's  
8 what we talk. Instead of saying the whole word,  
9 we'll say that slang.

10 Q. And over here you use the term that has  
11 the word "stripper" in it?

12 A. Right.

13 Q. How do you normally get Suboxone?

14 A. I normally get it through other inmates  
15 that are at the facility.

16 Q. Can you describe what Suboxone looks like  
17 for the jury?

18 A. Well, it comes in a couple of different  
19 forms. One is a pill form, and then the other form  
20 is most common in prison. It's like a strip, looks  
21 like, you know, the Listerine breath mint strips,  
22 looks like those, about the same size and  
23 everything. Put it on your tongue and it dissolves  
24 and you get a high off of it.

25 Q. So when you use the term "subs" and the

1 term "stripper," are you talking about getting  
2 Suboxone strips?

3 A. Suboxone strips, yes.

4 Q. Was this attempt successful?

5 A. No.

6 Q. And did you try to send this to the female  
7 inmates hoping that they could get you some  
8 Suboxone?

9 A. Yes.

10 Q. Now, even though this attempt didn't work,  
11 were you using drugs in that facility?

12 A. Yes.

13 Q. What drugs did you use over there?

14 A. Suboxone.

15 Q. And did you know that you weren't supposed  
16 to be using Suboxone in the facility?

17 A. Yeah.

18 Q. I asked you this earlier. From time to  
19 time you were in a street gang until even during  
20 this case, have you ever stopped using drugs?

21 A. Yeah, I told you that I stopped using  
22 crack around 2008 when my daughter was born. And  
23 I've done heroin and a few other things after that.

24 Q. But have there been times, for example,  
25 even while you were in jail in this case, did you



1 continue to use drugs?

2 A. Yeah.

3 Q. Now, I also want to talk to you about some  
4 of the benefits you received in this case. At one  
5 point were you allowed contact visits?

6 A. Yes.

7 Q. Where was that?

8 A. They first started in Grants, New Mexico,  
9 at the prison there. And then they continued in  
10 Santa Fe at the North facility.

11 Q. And what is a contact visit normally?  
12 What goes on in that type of visit?

13 A. Oh, we get to hug and kiss our families,  
14 talk to them. If there's kids, we can hold them.  
15 That's it. I mean, they're just right there. There  
16 is no glass in between us, you know. It's contact.

17 Q. When you say there is no glass in between  
18 you, does that mean you're able to be in the same  
19 room with them?

20 A. Yes.

21 Q. Can you describe the room?

22 A. It's a little -- about an 8-by-8 room that  
23 was used normally for attorney visits. And we used  
24 that room for about eight months. There is a table  
25 in there, two chairs.

1 Q. About how long would you normally be  
2 allowed a contact visit?

3 A. I believe it's eight hours a week, eight  
4 hours a week. I mean, none of us never went that  
5 long, but that's the max that you're allowed.

6 Q. At some point in time were you caught  
7 abusing that privilege?

8 A. Yes, I was.

9 Q. How did you abuse that privilege?

10 A. I was doing a little too much touching and  
11 doing more than touching with my lady.

12 Q. So that was probably kind of embarrassing,  
13 but what kind of touching was going on in that room?

14 A. We were fondling, playing with each other,  
15 touching each other in spots and places that are  
16 sacred, if you would like to say that. That's  
17 basically it, fondling.

18 Q. And did she touch you in any kind of way?

19 A. Yes.

20 Q. Can you tell the members of the jury  
21 whether there was any oral sex performed in that  
22 room?

23 A. There was. She performed oral sex on me.

24 Q. And was that a violation of the rules of  
25 the contact visits?

1 A. Yes, it was.

2 Q. Did you have permission to do that at all?

3 A. No, I did not.

4 Q. And how was it that this was eventually  
5 discovered?

6 A. There's a camera that's in the room. For  
7 a long time things were happening since before that  
8 we got caught. You know, we were doing a little  
9 more touching and a little bit more excessive  
10 kissing and hugging, and you know, that's frowned  
11 upon, too. So week after week, when the wardens or  
12 lieutenants or captains did not come through and  
13 say, "Hey, you got to calm down on that touching a  
14 little bit," or, "Calm down on this; no kissing so  
15 much or hugging," or this or that, we figured that  
16 the camera didn't work. And so we -- I and a couple  
17 others took it a little further than just the  
18 touching and the kissing and the hugging.

19 Q. And what happened once you were finally  
20 caught and the video was produced?

21 A. The contact visits were terminated  
22 indefinitely.

23 Q. And what other consequences did you  
24 suffer?

25 A. They relocated us from that facility to

1 another facility. That's when we were moved to  
2 Sandoval County.

3 Q. Did you have any good time or anything  
4 else like that taken away from you?

5 A. No.

6 Q. Were you serving a state sentence anymore  
7 at that point?

8 A. I was still serving a state sentence, but  
9 I got -- I received a misconduct report for it. But  
10 that was -- nothing ever came about it because we  
11 got moved.

12 Q. Up to that point, were you receiving any  
13 other benefits, such as receiving money or anything  
14 of that nature?

15 A. I received money a couple of times.

16 Q. Do you remember how much money it was you  
17 received?

18 A. Altogether?

19 Q. Yes.

20 A. I would say anywhere from 5- to \$700. I'm  
21 not sure. It was two or three times I had received,  
22 and there was 2- or 300 each time.

23 Q. Over what period of time, then, did you  
24 receive that amount of money?

25 A. September -- August, up until December of

1 2016.

2 Q. And did that go on your commissary or how  
3 did you receive the money?

4 A. On my inmate account. It came on my  
5 inmate account.

6 Q. What types of items would you buy with  
7 that money?

8 A. I'd buy art supplies, bought music on my  
9 MP3 player, canteen, hygiene, stuff that I needed,  
10 stuff that I wanted.

11 Q. And did you keep track of the money, or  
12 whenever there is money on your books you would  
13 spend to it buy things?

14 A. I would spend it to buy things.

15 Q. And do you recall if you got extra calls?

16 A. We had unlimited access to the phones.

17 Q. Anything else you recall receiving as a  
18 benefit?

19 A. No.

20 Q. And once again, once you were caught, what  
21 kind of phone access did you have after that?

22 A. The same. It took about a week and a half  
23 for them to transfer us out of prison to Sandoval  
24 County. And when we got to Sandoval County, we were  
25 in a pod. We weren't locked down. So the phone --

1 there was three phones in the pod, so we still had  
2 unlimited access to it, except for counts and  
3 lockdowns.

4 Q. Give me a moment, Mr. Armenta. Let me  
5 look for a document here. Ultimately, you  
6 understand as part of your cooperation in this case  
7 that you're required to testify truthfully in these  
8 or any proceedings?

9 A. Yes.

10 Q. And as a result of your cooperation, are  
11 you hoping to get some sort of reduction in your  
12 sentence?

13 A. I would like to, yes.

14 Q. And ultimately who makes that decision?

15 A. The Honorable Mr. Browning.

16 MR. CASTELLANO: May I have a moment, Your  
17 Honor?

18 THE COURT: You may.

19 MR. CASTELLANO: Thank you, Your Honor. I  
20 pass the witness.

21 THE COURT: Thank you, Mr. Castellano.

22 Who is going to take the lead? Ms. Jacks?

23 All right. Ms. Jacks.

24 MS. JACKS: I'm warning everybody I'm  
25 under the weather. So I'll do my best.

1 CROSS-EXAMINATION

2 BY MS. JACKS:

3 Q. Mr. Armenta?

4 A. Yes, ma'am.

5 Q. You killed Javier Molina; correct?

6 A. Yes, ma'am, I did.

7 Q. And how did you do that?

8 A. I stabbed him.

9 Q. How many times did you stab him?

10 A. I would say around 20, 21 times.

11 Q. Twenty or twenty-one?

12 A. Yes.

13 Q. And Jerry Montoya stabbed him 20 or 21  
14 times?

15 A. Yeah, at least half.

16 Q. When you stabbed him, where did you stab  
17 him?

18 A. I stabbed him on this side, the left side  
19 first. And then I changed sides, because Mr.  
20 Montoya had said, "Be careful, you're going to stab  
21 me." And I changed to this side.

22 Q. So you first stab him in the area of the  
23 chest where his heart is?

24 A. No, right here.

25 Q. On the other side?

1 A. On his left flank.

2 Q. And then you switched, and you stabbed  
3 him --

4 A. On the right side.

5 Q. -- on the area where his heart is?

6 A. No. His heart is right here in the  
7 middle. By the left side.

8 Q. So is it your testimony that you were  
9 trying to avoid his heart?

10 A. Yes.

11 Q. Were you trying to kill him, according to  
12 you?

13 A. No.

14 Q. You stabbed him 21 times and your  
15 testimony is that you weren't trying to kill him?

16 A. No.

17 Q. What happened when he got out of the room  
18 where you were stabbing him?

19 A. He ran out of the room, and we followed  
20 him.

21 Q. And did you stab him any more?

22 A. No.

23 Q. As you followed him?

24 A. No.

25 Q. What did you do to him then?



1 A. I hit him.

2 Q. Where did you hit him?

3 A. In his head, in his face.

4 Q. Did you kick him?

5 A. No.

6 Q. And you did that as he was trying to  
7 escape; right?

8 A. Yes.

9 Q. He was trying to get away from you?

10 A. Yes.

11 Q. And it's your testimony here in court,  
12 under oath, that you weren't trying to kill him?

13 A. Yes.

14 Q. You know, I'm assuming that the entire  
15 attack is on video; right?

16 A. Yes, I saw it.

17 Q. And on the video we can clearly see that  
18 you and Mr. Montoya were attacking Mr. Molina;  
19 right?

20 A. Yes, ma'am.

21 Q. Now, is it fair to say that ever since you  
22 killed Mr. Molina, you've been doing whatever you  
23 can to try to avoid consequences of your criminal  
24 behavior?

25 A. No. I pled guilty to the murder of

1 Mr. Molina.

2 Q. Well, you pled guilty in hopes that by  
3 becoming a Government witness -- let's just go back  
4 for a second, okay? Because there were actually two  
5 proceedings involving the murder of Mr. Molina;  
6 right?

7 A. What proceedings?

8 Q. Well, there were some proceedings in New  
9 Mexico state court; right?

10 A. Oh, yes, ma'am.

11 Q. And then there were proceedings in this  
12 federal court.

13 A. After the state court had dismissed the  
14 charges in the state, yes, then this one came.

15 Q. And in state court, were you offered a  
16 plea bargain in exchange for your cooperation,  
17 testifying as a witness for the district attorney?

18 A. No.

19 Q. You weren't?

20 A. No. I gave them testimony way before they  
21 gave me a plea bargain.

22 Q. Were you offered a plea bargain in state  
23 court?

24 A. Not till afterwards.

25 Q. My question was: Were you offered a plea

1 bargain in state court? And can you tell the jury  
2 what the plea bargain you were offered in state  
3 court was?

4 A. Involuntary manslaughter.

5 Q. So that means that you're admitting to a  
6 homicide in which you didn't mean to kill the  
7 person?

8 A. Yeah.

9 Q. And what was the amount of time that you  
10 were supposed to get in exchange for pleading guilty  
11 to involuntary --

12 A. Eighteen months to three years.

13 Q. And were you promised a sentence of 18  
14 months in state prison?

15 A. It was kind of up in the air, but yeah.

16 Q. And was part of that sentence supposed to  
17 be suspended as part of your plea bargain?

18 A. No, I do not believe it was.

19 Q. So you thought -- so in state court you  
20 thought you'd settled the Javier Molina murder  
21 case --

22 A. Yes.

23 Q. -- on very favorable terms?

24 A. Yeah.

25 Q. And then you got indicted in federal

1 court; right?

2 A. Right.

3 Q. And you made a deal to become a Government  
4 witness?

5 A. I became a Government witness before the  
6 indictment.

7 Q. Well, you were a witness --

8 A. I talked to the U.S. Attorney's Office  
9 before.

10 Q. That's correct. At the time of your  
11 indictment, you already were a Government witness.

12 A. Yes.

13 Q. And you actually were a witness first for  
14 the DA and then for the federal government?

15 A. Yes.

16 Q. And as part of that -- as part of that  
17 arrangement, were you offered -- or did you enter  
18 into a cooperation plea agreement?

19 A. Yes.

20 Q. And as part of that cooperation plea  
21 agreement, you're hoping that you're not going to  
22 get a life sentence for the murder of Javier Molina;  
23 right?

24 A. Yes.

25 Q. And what you're hoping is that in exchange

1 for agreeing to be a Government witness, that you're  
2 going to get some sort of determinant sentence that  
3 you'll be able to get out of jail?

4 A. At some time, yes.

5 Q. So my question is: Ever since you killed  
6 Mr. Molina, you've been doing what you can to avoid  
7 the full consequences of your criminal behavior,  
8 haven't you?

9 A. Yes, ma'am.

10 Q. What was the first thing?

11 MR. JEWKES: Your Honor, could we ask the  
12 witness to speak up?

13 A. Sorry. I just was a little far away.

14 Q. Mr. Armenta, was the first thing that you  
15 did to try to get out of the consequences of your  
16 criminal behavior -- was that to lie and say that  
17 you were just standing there at the pod door when  
18 this all happened?

19 A. Yeah.

20 Q. And then I think you told us the second  
21 thing you did was -- or the second way you tried to  
22 get out of it is, you cooked up a story with Mario  
23 Rodriguez and Timothy Martinez?

24 A. Not myself to get out of it; to get Mario  
25 Rodriguez and Mr. Montoya out of it.

1 Q. And that story also included that you  
2 killed Mr. Molina in the course of an argument --

3 A. Yes.

4 Q. -- right? To try to say that this was a  
5 sudden argument that was brought on by his insulting  
6 your daughter and telling you "Fuck you"; right?

7 A. Yeah.

8 Q. So that was try Number 2, right?

9 A. Yes.

10 Q. And then try Number 3 or attempt Number 3  
11 was to try to say that you did it, but you didn't  
12 purposely -- you weren't purposely trying to kill  
13 him?

14 A. Yes.

15 Q. And today you're sitting here in court and  
16 you're telling us that now -- now you're telling us  
17 that you did it because Mr. Sanchez made you?

18 A. He did.

19 Q. Mr. Armenta, in the past when you've  
20 committed criminal acts, those tend to come pretty  
21 easy to you, don't they?

22 A. Yeah. I sold drugs.

23 Q. People don't have to make you commit  
24 criminal acts, do they?

25 A. No.

1 Q. Were you convicted of drug trafficking by  
2 distribution of cocaine, date of offense December 8,  
3 1999, in Bernalillo County?

4 A. Yes, ma'am, I was.

5 Q. And were you also convicted of drug  
6 trafficking by distribution of cocaine, date of  
7 offense May 5, 2000, in Bernalillo County?

8 A. Yes, ma'am, I was.

9 Q. And were you also convicted of drug  
10 trafficking by distribution of cocaine, an offense  
11 date of April 24, 2000, in Bernalillo County?

12 A. Yes, ma'am.

13 Q. And were you convicted of aggravated  
14 battery in 2006 in Guadalupe County?

15 A. Yes.

16 Q. And then were you convicted of two counts  
17 of contributing to the delinquency of a minor for  
18 offenses that occurred between August 1st, 2011, and  
19 February 29, 2012?

20 A. Yes, ma'am.

21 Q. And those were offenses that you committed  
22 while you were out on bail on another case; right?

23 A. Supposedly, the first offense happened  
24 before I picked up my fourth trafficking case. And  
25 then supposedly, the second incident happened

1 afterwards, yes.

2 Q. So you were out on bail and you were  
3 reporting to Pretrial Services?

4 A. Yes.

5 Q. And you were then committing acts that  
6 ultimately ended up in your conviction for  
7 contributing to the delinquency of a minor?

8 A. I was accused of something.

9 Q. Are you telling me you didn't do what you  
10 were accused of?

11 A. Yes.

12 Q. So you were falsely in prison for that?

13 A. Well, I pled to it. But there's reasons  
14 behind that.

15 Q. Were you convicted again of drug  
16 trafficking in October of 2014?

17 A. Yes, ma'am.

18 Q. And that was a case that was actually  
19 pending against you when you killed Javier Molina;  
20 right?

21 A. Yes, ma'am.

22 Q. And it just took that long for the case to  
23 be finished?

24 A. Yes, ma'am.

25 Q. Now, I want to talk to you a little bit



1 about the contributing-to-the-delinquency-of-a-minor  
2 case.

3 A. Okay.

4 Q. And you testified this morning -- and I  
5 think this morning, really, maybe not so much this  
6 afternoon -- about your family and how much your  
7 family and your daughters mean to you.

8 A. Um-hum.

9 Q. And I think we've seen the letter that you  
10 wrote to Jerry Montoya. Is that exhibit around?  
11 We've seen this letter, the letter that you wrote to  
12 Jerry Montoya that's marked as Government's Exhibit  
13 757. The letter that never got delivered; the  
14 letter got intercepted. Do you recall that?

15 A. Yes.

16 Q. I'm going to put it up here. And you talk  
17 in this letter -- or you write in this letter to Mr.  
18 Montoya -- let me see if I can find it here. "I'm a  
19 dad first and that means more to me than this fake  
20 ass onda." Did you write that?

21 A. Yes, ma'am.

22 Q. So what you're trying to communicate to  
23 Mr. Montoya is that you're a father first and a gang  
24 member somewhere down the line?

25 A. Yeah.

1 Q. And looking at the second page, did you  
2 write to Mr. Montoya, "Am I get it right at home  
3 with the fam, yep"?

4 A. Yes.

5 Q. What does that mean?

6 A. That means I'll be home again one day with  
7 my family.

8 Q. The truth is, Mr. Armenta, that you never  
9 actually held a real job and supported your family;  
10 right? That's the truth; right?

11 A. Yeah.

12 Q. And the truth is, you were never really  
13 there for your family?

14 A. Oh, I was there.

15 Q. You were a gang banger and a crack addict;  
16 right?

17 A. Until 2008 I was smoking crack, when my  
18 first daughter was born.

19 Q. And you stole your family's money and you  
20 stole their possessions to feed your addiction,  
21 didn't you?

22 A. No. I had problems, but I never stole  
23 from them.

24 MS. JACKS: Your Honor, may we approach?

25 THE COURT: You may.

1 (The following proceedings were held at  
2 the bench.)

3 MS. JACKS: I'm going to stand back  
4 because I don't want to get everybody sick. But at  
5 this point I think that the facts of the  
6 contributing to the delinquency of a minor, the  
7 underlying facts of those convictions should be  
8 permitted in. And I have a few reasons. Number  
9 one, first of all, the victim in that case -- it was  
10 a sexual contact with a minor between the ages of 13  
11 and 18. The victim in this case is one of the  
12 daughters in the family.

13 THE COURT: Is what?

14 MS. JACKS: The victim in the case is one  
15 of the daughters in Mr. Armenta's family. It's his  
16 own daughter. She removed the doorknob from her  
17 bedroom door and slept with a hammer under her  
18 pillow. The family has cut him off and are furious  
19 with him and don't want him to return to his family  
20 This is a complete charade.

21 Number two, I think it impeaches his claim  
22 that he's SNM. He's told us very clearly the people  
23 in SNM -- that people in the SNM doesn't permit  
24 people in the gang that have sex, sexual misconduct,  
25 particularly with children.

1 And he's told inconsistent stories about  
2 whether he's an SNM Gang member. According to even  
3 what he says, he would not be permitted in.

4 Number two, I think -- or number three, I  
5 think, on direct he talked about having, quote  
6 "minor run-ins with the law." I think to sexually  
7 assault your daughter is not a minor run-in with the  
8 law.

9 And finally, he used his tablet and he was  
10 able to hook up to the internet to search -- conduct  
11 searches that including searching for the location  
12 of his victim in the sex offense.

13 MR. CASTELLANO: I mean, she led him  
14 through a winding road of questions in an attempt to  
15 goad him in a position to where she could get into  
16 the facts behind the contributing charge. That's  
17 unfair to ask him a lot of questions like that to  
18 goad him into a position where she's been allowed to  
19 go behind the conviction. When I asked about  
20 run-ins with the law, I asked about charges that  
21 were dismissed. He mentioned one of the charges, I  
22 think, was a theft or something like that. And the  
23 charge was ultimately dismissed. And that's what  
24 that referred to, were run-ins where -- things that  
25 didn't happen. And now we're going to get into a

1 collateral issue about this conviction.

2 THE COURT: I probably won't let any proof  
3 in. I think it may be collateral, but I will allow  
4 her to go into this. I think he's opened up some  
5 doors and leaving a false impression. If she can  
6 establish with the witness, I think that's fine. If  
7 she can't, I'll bring it to an end. I probably  
8 won't have any additional proof. But I'll let you  
9 do what you want to with the witness.

10 MR. CASTELLANO: I would object. She  
11 goads him into answers to go behind that. I don't  
12 think that's a fair examination in order to bypass  
13 the rule on using a prior conviction for  
14 impeachment, Your Honor.

15 MS. JACKS: I just want to respond to  
16 that, because I didn't goad him into this. This was  
17 a reason that came out of direct examination of this  
18 witness.

19 THE COURT: I'll let you ask the questions  
20 of the witness.

21 (The following proceedings were held in  
22 open court.)

23 THE COURT: Ms. Jacks.

24 BY MS. JACKS:

25 Q. So Mr. Armenta, the contributing to the

1 delinquency of a minor convictions -- those  
2 convictions were a plea bargain, right, from a worse  
3 charge; right?

4 A. Yes, ma'am.

5 Q. And what was the original charge that you  
6 plea bargained down to this contributing to a  
7 delinquency of a minor?

8 A. Sexual contact of a minor.

9 Q. Sexual contact with a minor between the  
10 ages of 13 and under 18; right?

11 A. Yes.

12 Q. Who was the victim in that offense?

13 A. My wife's older daughter.

14 Q. And how old was she?

15 A. Fourteen.

16 Q. And the truth about your conduct in that  
17 case is that you used your position as father in the  
18 family to apply force to that 14-year-old's  
19 genitals; correct?

20 A. No, I did not.

21 Q. Your daughter -- did your daughter become  
22 distraught over your conduct with her from August of  
23 2011 through February of 2012, while you were out on  
24 bail?

25 A. No.

1 Q. Did the case come to the attention of  
2 authorities after she removed her -- the doorknob  
3 from her bedroom door and slept with a hammer under  
4 her pillow?

5 A. Okay, look --

6 Q. Do you think that's funny, Mr. Armenta?

7 A. My wife, her mom, had me remove her door  
8 from her room because she was doing a lot of things  
9 that weren't -- she wasn't listening to her. And  
10 she slept with a hammer -- it was there in her room  
11 because she was putting up hundreds of pictures of  
12 her dad and her grandpa and everyone that had passed  
13 away. And she had the nail box that we have in her  
14 room.

15 Q. Mr. Armenta, was the case pled down to  
16 contributing to the delinquency of a minor?

17 A. Yes, it was.

18 Q. Because your daughter was too traumatized  
19 and too scared to come testify in court against you?

20 A. No, I was ready for court, and I was ready  
21 for trial, and so was she.

22 Q. The truth is that your daughter doesn't  
23 want to see you anymore; right?

24 A. Well, she's not my real daughter.

25 Q. Oh. Does that make it okay?

1 A. No, but she's not my real daughter.

2 Q. The truth is, her mother -- there is no  
3 family to go home to. The mother never wants to see  
4 you again.

5 A. No.

6 Q. No, she does want to see you?

7 A. No, she doesn't.

8 Q. She doesn't?

9 A. I don't want to see her, either.

10 Q. So this family, these children that you've  
11 got to go home to -- that doesn't exist; that's a  
12 fiction?

13 A. She can't take my children from me.

14 Q. The truth is, your wife doesn't speak your  
15 name to the children, does she?

16 A. No, she calls me "ghost dad."

17 Q. And she wants to change her name and the  
18 children's names, so they don't have to think about  
19 you and what you did to the family.

20 A. I didn't do nothing to the family.

21 Q. You didn't?

22 A. No.

23 Q. Is it your testimony that you have no  
24 interest in young girls under the age of 18 --

25 A. I have no --



1 Q. -- for your sexual pleasure?

2 A. No.

3 Q. Absolutely none?

4 A. None.

5 Q. Well, let's talk a little bit about your  
6 tablet, because I think you told us on direct  
7 examination that you reset your tablet; right?

8 A. Yes.

9 Q. And you lost the discovery, but you gained  
10 a lot of other stuff; right?

11 A. Yes, ma'am.

12 Q. You got -- tell us what you used the  
13 tablet for.

14 A. Music, porn, music videos, Google, you  
15 know, searching the web.

16 Q. Facebook?

17 A. Facebook.

18 Q. Email?

19 A. Emailed my girlfriend, yeah.

20 Q. Did you use your tablet to search for your  
21 wife, to try find out where she was currently  
22 living?

23 A. No, I was searching so I could get  
24 pictures of my daughters.

25 Q. So you do admit that you Googled your

1 wife, your wife's name?

2 A. No, I just looked them up on Facebook.

3 Q. I'm sorry?

4 A. I just looked her up on Facebook.

5 Q. Did you look for addresses or for maps of  
6 where she was currently living --

7 A. No.

8 Q. -- while you were in custody on this case?

9 A. No.

10 Q. And let's talk a little bit about the  
11 pornography, because at some point you got access to  
12 the internet; right?

13 A. Yes, ma'am.

14 Q. Let's see. You reset the tablet in  
15 January, and you had it through April of 2017?

16 A. Yes.

17 Q. So that was right after you got caught  
18 having sex with somebody multiple times in the  
19 visiting room?

20 A. Um-hum, yes.

21 Q. At the Penitentiary of New Mexico?

22 A. Yes, ma'am.

23 Q. And so you reset the tablet, and then when  
24 did you gain internet access?

25 A. Where?

1 Q. When?

2 A. Late January in Sandoval County.

3 Q. Late January of 2017?

4 A. Yes, ma'am.

5 Q. And you had internet access through April  
6 of 2017?

7 A. Yes, ma'am.

8 Q. You know that your tablet has been seized;  
9 right?

10 A. Yes, ma'am.

11 Q. And you're aware that it's been turned  
12 over to the defense just a week or so ago for  
13 forensic examination?

14 A. Yes.

15 Q. Has somebody talked to you about that?

16 A. Yes.

17 Q. The prosecutors?

18 A. Yes.

19 Q. So I'm going to ask you -- you're telling  
20 us you have no interest in young girls under the age  
21 of 18?

22 A. No.

23 Q. I'm going to ask you if, on April 8 of  
24 2017, you conducted a Google search for "petite teen  
25 vaginas"?

1 A. I don't recall that.

2 Q. That would be a search for pornography;  
3 right?

4 A. Yeah.

5 Q. And you admitted you used the tablet for  
6 pornography?

7 A. Yes.

8 Q. Did you conduct a Google search on April  
9 6, 2017, for "hot sick teens"?

10 A. I can't recall that either.

11 Q. Did you -- really? You can't?

12 A. No.

13 Q. Did you conduct a Google search on April 4  
14 of 2017, for "teen camel toes"?

15 A. I don't recall. Possibly.

16 Q. What's a camel toe?

17 A. A camel toe is a woman's vagina through  
18 her clothes; the look of it, the indentation, or  
19 whatever, that it makes.

20 Q. On April 4 of 2017, did you conduct a  
21 search for "pink teen vaginas"?

22 A. I do not recall.

23 Q. How about on April 5, "for young teenage  
24 camel toes"?

25 A. I don't recall.

1 Q. Did you conduct a search on April 7 of  
2 2017 for "teen tits"?

3 A. I don't recall, ma'am.

4 Q. Did you conduct a search on April 5 of  
5 2017 for "big fat teen asses"?

6 A. I don't recall none of that.

7 Q. Did you conduct a search on April 7, 2017  
8 for "young teens with big tits"?

9 A. I don't recall.

10 Q. Were you on drugs or something at the  
11 time? Is that what was affecting your memory?

12 A. No, I just think that it might have been  
13 other inmates that were in the pod with us. They  
14 knew about our tablets. They knew about the  
15 internet, and they were using them also, so --

16 Q. Were they also in custody for contributing  
17 to the delinquency of a minor, pled down from sexual  
18 conduct with a minor under 18?

19 A. Not that I'm aware of.

20 Q. Did you conduct a search on April 6 of  
21 2017 for "hot sick teens"?

22 A. Not that I recall, ma'am.

23 Q. Did you conduct a search for "big teen  
24 booties" on April 4?

25 A. I don't remember none of that.

1 Q. Did you conduct a search on April 5 for  
2 "teeny bopper camel toes"?

3 A. No, I can't remember that.

4 Q. You know -- that one you didn't do, or you  
5 can't remember?

6 A. I can't recall none of that.

7 Q. Did you conduct a search on April 4 for  
8 "hot young naked girls"?

9 A. I don't recall.

10 Q. How about the same day for "small teen  
11 vaginas"?

12 A. I don't recall.

13 Q. April 5 of 2017 for "teen asses"?

14 A. I don't recall.

15 Q. April 7, 2017, "young teens naked big  
16 tits"?

17 A. I don't recall, man.

18 Q. How about on April 5, "South American  
19 naked tribal teens nude"?

20 A. No, not that I recall.

21 Q. Well, what kind of searches did you make,  
22 Mr. Armenta?

23 A. I searched -- like I went to Facebook and  
24 my MySpace. I talked a lot with my girlfriend on  
25 there. I looked up the International Space Station.

1 I looked at my girlfriend's house on Google Maps. I  
2 wasn't on it 24/7. I already had a dose of the  
3 internet when I was out last, so I wasn't always on  
4 it.

5 Q. Mr. Armenta, while you were in prison, did  
6 you call your 14-year-old stepdaughter on her  
7 cellphone with your brother?

8 A. Call her?

9 Q. Yes.

10 A. Did I call her?

11 Q. Yeah.

12 A. No.

13 Q. Did you call any children in your  
14 household with your brother, female children?

15 A. No.

16 Q. Did you ever make phone calls while you  
17 were in prison with your brother on a three-way, and  
18 tell the children -- tell the child to play with her  
19 flower, and to tell you the details?

20 A. That was a charge that my brother picked  
21 up on his own. Him and my oldest stepdaughter had a  
22 relationship going on. And STIU in Grants picked up  
23 on it, and found out she was a minor, and charged  
24 him with -- I'm not sure the name of it, the charge  
25 of sexual through a telephonic device, or something

1 like that.

2 Q. Some of those calls were three-way calls  
3 that you were on, weren't they?

4 A. No.

5 Q. Now, also on direct examination we've  
6 heard a lot of things about your special-needs  
7 daughter.

8 A. Yes, ma'am.

9 Q. How old is she now?

10 A. She is 7.

11 Q. And your claim or your testimony is that  
12 you stopped using crack when she was born?

13 A. No, that would be Aleah, 2008.

14 Q. So there is an older one. You're saying  
15 you stopped using crack before this special-needs  
16 daughter was born?

17 A. Yes.

18 Q. That's a lie, isn't it?

19 A. No. I used cocaine, but not crack.

20 Q. Oh. Oh. Wait. Let's get this straight.  
21 So what is crack?

22 A. Crack is a form of cocaine, but it is  
23 smoked. The form of cocaine that I was using after  
24 my daughter was born was in the form of powder. I  
25 was snorting it.



1 Q. Okay. So just so that we're clear, then,  
2 you've continued to use cocaine even after all your  
3 daughters were born; right?

4 A. Occasionally, yes, ma'am.

5 Q. And your testimony is that you stopped  
6 using crack, you stopped smoking cocaine?

7 A. Yeah. Crack was my problem. When I get  
8 on it, I would not stop.

9 Q. And cocaine is not a problem?

10 A. No.

11 Q. A few years ago your special-needs  
12 daughter -- she has a heart and a lung problem;  
13 right?

14 A. Yes.

15 Q. And a few years ago she needed some  
16 special medical attention from a high-powered  
17 medical center; right?

18 A. She had a heart surgery a few days after  
19 she was born.

20 Q. A few years ago did she have to go to  
21 Stanford University Hospital for surgery?

22 A. Yes, in 2010.

23 Q. And in 2010, did the Ronald McDonald House  
24 at Stanford University agree to pay for you and your  
25 wife to come and be with your young daughter when

1 she had surgery?

2 A. No, they did not.

3 Q. So that never happened?

4 A. Ronald McDonald didn't pay for nothing.

5 Q. Did you go? Were you able to go?

6 A. Yes, we went. We were there for two  
7 weeks.

8 Q. And you were in Palo Alto for two weeks,  
9 in Palo Alto, California?

10 A. Yes, ma'am.

11 Q. And while you were there, did the Ronald  
12 McDonald House open up a bank account for you and  
13 your wife so that you could pay for your living  
14 expenses while you were there helping your daughter  
15 recover from the surgery?

16 A. No. My mother opened up that bank account  
17 so that family members could send us money if we  
18 needed it.

19 Q. You took the money in that bank account,  
20 didn't you?

21 A. No. Me and my wife used it.

22 Q. You took the money out of the bank account  
23 and went and bought crack, and left your wife and  
24 your daughter stranded at the hospital with nothing?

25 A. No.

1 Q. That's not true?

2 A. No, that's not true.

3 Q. And when you came back to the hospital,  
4 after you'd spent the money on drugs, you got into a  
5 fight with your wife there at that Stanford  
6 University Hospital, didn't you?

7 A. No.

8 Q. And you threatened to blow up her house  
9 with the kids in it?

10 A. That was a fight in Albuquerque, New  
11 Mexico.

12 Q. That's a different fight?

13 A. That -- we didn't have a fight in  
14 Stanford, in Palo Alto.

15 Q. Did the nurses at Stanford University  
16 Hospital have to call the police to come respond --

17 A. No.

18 Q. -- to the fight between you and your wife  
19 that happened after you stole money from the bank  
20 account?

21 A. No. There was no money that was ever  
22 stolen from an account in Palo Alto or in  
23 Albuquerque, New Mexico. We were fighting about  
24 something different in Albuquerque.

25 Q. I'm asking you about the fight that

1 occurred in Palo Alto.

2 A. There wasn't a real fight that happened in  
3 Palo Alto, ma'am.

4 Q. Now, Mr. Armenta, you've told a lot of  
5 different stories about your SNM membership, too,  
6 haven't you?

7 A. Yes.

8 Q. Sometimes you're a member, sometimes  
9 you're not?

10 A. No, I was a member.

11 Q. But you've told different stories about  
12 that, haven't you?

13 A. What do you mean?

14 Q. You said different things?

15 A. Like?

16 Q. Like sometimes you say you are a member of  
17 SNM, and other times you say you're not.

18 A. No, I say I'm not an SNM Gang member now.

19 Q. Okay. But I'm talking about before. I'm  
20 talking about before today. I'm talking about  
21 before you made a deal with the Government.

22 A. I was an SNM Gang member. I always was.

23 Q. My question is: You've told different  
24 stories about that; right?

25 A. No.

1 Q. Let me direct you to September 1st of  
2 2015.

3 A. Okay.

4 Q. And there was -- let me just orient you a  
5 little bit. We talked about this letter -- or the  
6 Government talked with you about this letter,  
7 Government's Exhibit 757. And this is the letter  
8 you wrote in January of 2015 to Jerry Montoya's  
9 lawyer; right?

10 A. Yes, ma'am.

11 Q. And this was the letter that had a story  
12 about the Molina murder that you cooked up with  
13 Mario Rodriguez and Timothy Martinez; right?

14 A. Yes, ma'am.

15 Q. And the goal of this letter was to get Mr.  
16 Montoya off by you being a witness for him?

17 A. By me taking the blame for him.

18 Q. Okay. And as a result of this letter, did  
19 Mr. Montoya's criminal defense lawyer provide or  
20 make a motion to the judge to give immunity and  
21 order you to attend a deposition to see what you  
22 knew?

23 A. I was never granted or awarded immunity.  
24 He did get me to -- down here to Dona Ana County  
25 Jail, and I was interviewed by him, my attorney, and

1 Mr. Dougherty, the district attorney.

2 Q. So we're talking about this interview. Do  
3 you know what date that happened?

4 A. Not exactly. But I know it was like  
5 either the beginning -- first few days of September,  
6 or the last few days of August.

7 Q. Okay. Well, if I told you I had a  
8 transcript of that interview, where it started out  
9 with: "Today is September 1st. We're present with  
10 Mr. Jerry Armenta; his attorney, Gary Mitchell;  
11 representing the State is Dan Dougherty;  
12 representing Jerry Montoya is myself, Mario Esparza;  
13 our public defender investigator Olivia Moraz"?

14 A. Yes.

15 Q. Would that refresh your memory that that  
16 incident or that deposition occurred September 1st  
17 of 2015?

18 A. Yes.

19 Q. And prior to asking you questions, did  
20 your lawyer -- you were asked questions by Mr.  
21 Montoya's lawyer; right?

22 A. Yes.

23 Q. During that deposition?

24 A. Yes, ma'am.

25 Q. And prior to answering questions from Mr.

1 Montoya's lawyer, did your lawyer say, "Let me make  
2 a statement from this tape. We're giving this  
3 statement pursuant to an order from a district judge  
4 in the Third Judicial District granting you  
5 immunity." I'll finish reading it, "which means  
6 that" --

7 MR. CASTELLANO: Objection, Your Honor, to  
8 counsel reading a transcript. If she wants to  
9 refresh recollection, she can show it to the  
10 witness.

11 THE COURT: Don't read the transcript. If  
12 you want to refresh his memory, we'll have to do it  
13 the long way.

14 BY MS. JACKS:

15 Q. Mr. Armenta, does that refresh your memory  
16 as to whether you were granted immunity for that  
17 interview?

18 A. I don't remember that.

19 THE COURT: I think you need to show him,  
20 if you're going to refresh his memory, rather than  
21 reading it to the jury.

22 Q. We'll go forward. Do you know what  
23 "immunity" means, Mr. Armenta?

24 A. It means I think that you would be, like,  
25 free from prosecution, I believe.

1 Q. Right. Like whatever you say can't be  
2 used against you?

3 A. Yeah.

4 Q. So if you are granted immunity, would you  
5 have any reason to lie?

6 A. No.

7 Q. Because you tell the truth; it doesn't  
8 matter; right?

9 A. Right.

10 Q. So during the course of this deposition,  
11 what did you say about your SNM Gang membership; do  
12 you remember?

13 A. Not word for word. I believe that I was a  
14 gang member -- I said I was a gang member, and that  
15 I didn't want to be a gang member anymore.

16 Q. Did you say that you were a suspected SNM  
17 Gang member, according to the Department of  
18 Corrections, but that you weren't?

19 A. No, that was a validated SNM Gang member  
20 by the Department of Corrections.

21 Q. Did you say that you were a suspected  
22 validated SNM Gang member, but you're not?

23 A. No, I don't believe -- I've never denied  
24 my validation until now. I don't want to be an SNM  
25 Gang member anymore.



1 MS. JACKS: Your Honor, may I approach  
2 with two pages of this transcript?

3 THE COURT: You may.

4 MS. JACKS: May I approach, Your Honor?

5 THE COURT: You may.

6 BY MS. JACKS:

7 Q. For the record, this is pages 8 and 9 of  
8 the transcript. And Mr. Armenta, I ask you to read  
9 to yourself the bottom of paper 8 and top of page 9  
10 and let me know when you're done.

11 A. I don't recall saying that, but it's  
12 there, so obviously, I did say it. I don't recall,  
13 though.

14 Q. You did say that; right? So on September  
15 1st, 2015, you claimed to the DA and to Mr.  
16 Montoya's lawyer -- you claimed that you were a  
17 suspected validated SNM Gang member by the  
18 Department of Corrections, but that that was not  
19 true; right?

20 A. Yeah, that's what it says there.

21 Q. Then two weeks later, on September 17 of  
22 2015, did you have an interview with the district  
23 attorney's office again, but this time in the  
24 presence of federal prosecutors?

25 A. Yes.

1 Q. And in that interview on September 17 of  
2 2015, did you tell the prosecutors and the district  
3 attorney that you were, in fact, an SNM Gang member?

4 A. Yeah.

5 Q. Right. And that was the interview where  
6 you were kind of trying out to see if you could be a  
7 Government witness; right?

8 A. Well, I wouldn't say I was trying out. I  
9 was just telling them what happened, what I knew.

10 Q. Well, at that point in time, you were  
11 hoping to resolve your state case in a favorable  
12 manner by testifying against our people; right?

13 A. Yeah.

14 Q. And the way that you were going to resolve  
15 your state case in a favorable manner was by saying  
16 that the crime you committed was ordered by SNM;  
17 right?

18 A. Yes.

19 Q. So in that interview, it served your  
20 purpose to say that you were an SNM Gang member?  
21 Would you agree with me?

22 A. Yes.

23 Q. And so in that interview you said, "I'm an  
24 SNM Gang member."

25 A. Yes.

1 Q. Right? Whereas, two weeks prior, you said  
2 you weren't?

3 A. Yeah.

4 Q. So which is the truth?

5 A. I'm an SNM Gang member, validated SNM Gang  
6 member.

7 Q. Well, "validated" means the Department of  
8 Corrections has checked off their criteria, and they  
9 believe that they have enough evidence to prove  
10 you're an SNM Gang member; right?

11 A. Yes.

12 Q. That's what "validated" means?

13 A. Yes.

14 Q. That's a judgment by the Department of  
15 Corrections; right?

16 A. Yes.

17 Q. So potentially somebody could be validated  
18 and not be an SNM Gang member, right, potentially?

19 A. Yes.

20 Q. So when I'm asking you -- I'm not asking  
21 you what the Department of Corrections is labeling  
22 you. I'm asking you what is the truth.

23 A. Yes, I am.

24 Q. And you told us you're also a sex  
25 offender; right?

1 A. No.

2 Q. Well, you're a convicted sex offender?

3 A. No.

4 Q. If anybody looked at your paperwork from  
5 your case where you were accused of having sexual  
6 contact with your 14-year-old stepdaughter, they  
7 would believe that you were a sex offender?

8 A. Because they were arrests, yeah.

9 Q. So you told us this morning when Mr.  
10 Castellano was asking you questions that SNM rules  
11 don't permit sex offenders --

12 A. Yes.

13 Q. -- right?

14 A. Yes.

15 Q. So if SNM rules are applied, you couldn't  
16 be an SNM Gang member, could you?

17 A. I was already an SNM Gang member.

18 Q. Well, you're saying that SNM wouldn't kick  
19 you out if they found something out after the fact  
20 that would have violated the rule?

21 A. They probably would have killed me if they  
22 found out that it was true. But then again, I'm not  
23 a sex offender.

24 Q. Well --

25 A. And it's not in the system that I am a sex

1 offender.

2 Q. Well, it's in court documents and  
3 paperwork, isn't it?

4 A. No.

5 Q. And certainly your wife thinks you are?

6 A. I don't have to register.

7 MR. CASTELLANO: Objection, Your Honor.

8 THE COURT: Sustained. Don't argue.

9 BY MS. JACKS:

10 Q. Certainly, your wife would tell --

11 THE COURT: Just ask the questions.

12 Q. Certainly, if your wife were asked if you  
13 were, she would verify it?

14 MR. CASTELLANO: Objection, calls for  
15 speculation.

16 THE COURT: Sustained. Sustained.

17 BY MS. JACKS:

18 Q. So if you're an SNM Gang member, then the  
19 rule about sex offenders isn't really much of a  
20 rule, is it?

21 A. Oh, it's a rule. But if I would have went  
22 there telling them that I was arrested for a sex  
23 crime, I would have been killed or beat up. But if  
24 I would have had those convictions, there is no way  
25 I would have even stepped foot in that facility.

1 Q. Well, you were convicted for two counts of  
2 contributing to the delinquency of a minor?

3 A. Yes, ma'am, but it's not a sex crime.  
4 It's not a sex charge. It's not a sex conviction.

5 Q. It's a plea bargain down from a sex  
6 charge. I think we established that.

7 A. Yes.

8 Q. So earlier this morning, Mr. Castellano  
9 asked you a question about how do you get out of the  
10 gang. Do you remember that question?

11 A. Yes.

12 Q. And he showed you a page from your STIU  
13 file -- I think it had a stamp on the bottom of  
14 it -- I want to say it was 10331; do you recall  
15 that?

16 A. Yeah. This morning.

17 Q. And your testimony was: In answering  
18 questions that were proposed to you by the Security  
19 Threat Intelligence Group that you answered, "You  
20 don't. You don't get out"?

21 A. Yes, ma'am.

22 Q. Right. But you said different things in  
23 those same interviews, haven't you?

24 A. Like what?

25 Q. Well, I have a page that's marked 10333.

1 This is also from your inmate Security Threat Group  
2 validation package.

3 MS. JACKS: Your Honor, may I approach and  
4 show this to the witness?

5 THE COURT: You may.

6 BY MS. JACKS:

7 Q. Mr. Armenta, that's a page just like the  
8 page that Mr. Castellano showed you this morning;  
9 right? It's the same questionnaire, just a  
10 different date?

11 A. Yes.

12 Q. And you were asked the exact same  
13 question; right? "How do you get out of the gang?"  
14 Do you see that at the bottom of the page?

15 A. Yes, ma'am.

16 Q. And what did you respond?

17 A. "Walk away."

18 Q. I can't hear you.

19 A. "Walk away." Yeah, this is the street  
20 gang, not the SNM Gang. Because that's dated 2004,  
21 and I wasn't in the SNM until 2005.

22 Q. It's an interview in your STIU validation  
23 package; right?

24 A. Yes.

25 Q. By the Department of Corrections?

1 A. Yes, ma'am. It's pertaining to my street  
2 gang affiliation, not prison gang affiliation.

3 Q. I hear that. I hear that.

4 Now, I want to talk to you about your  
5 stories regarding the Molina murder. And I want to  
6 start with the first story you gave. And the first  
7 story you gave -- do you remember what it was -- on  
8 May 8 of 2014?

9 A. That I was standing by the door when he  
10 was getting beat up.

11 Q. And did you tell law enforcement that,  
12 "From what I understand, the guy got beat up"?

13 A. Yes.

14 Q. So like you had nothing to do with it?

15 A. Yes.

16 Q. And did you also tell them, quote, "I  
17 didn't become involved"?

18 A. Yes, I believe I did say that.

19 Q. Now, how did that story work for you?

20 A. It didn't. It didn't.

21 Q. It didn't work because there was the  
22 video; right?

23 A. Yeah.

24 Q. And the video clearly showed that that  
25 story was a lie?



1 A. And I quit speaking right after that.

2 Q. Because during that interview, after you  
3 made those statements, that's when law enforcement  
4 told you: "We have a video"?

5 A. Yeah.

6 Q. "We know you weren't standing by the  
7 door."

8 A. They didn't actually say that. They were  
9 still in the early stages of the investigation, so  
10 they didn't reveal too much about anything.

11 Q. But they told you they had a video; right?

12 A. They might have.

13 Q. And you knew during that interview that  
14 that story had flopped?

15 A. I knew they had a video anyway. The  
16 cameras weren't covered up.

17 Q. So after that story didn't work, you had  
18 to come up with a different story to try to get out  
19 of punishment for the murder of Mr. Molina; right?

20 A. I wasn't trying to get out of punishment.

21 Q. Well --

22 A. I was trying to get other people out of  
23 punishment.

24 Q. Well, you were also trying to reduce your  
25 own punishment, weren't you?

1 A. Well, yeah.

2 Q. Because there is certainly a difference  
3 between doing something in a premeditated, planned  
4 fashion and doing something out of anger; right?

5 A. Yes.

6 Q. So to come up with your second story --  
7 and the second story was that Mr. Molina had somehow  
8 insulted your special-needs daughter; right?

9 A. Yes.

10 Q. And had told you to "fuck off," when you  
11 got into an argument about wanting a syringe or  
12 something; right?

13 A. Yes, ma'am.

14 Q. And that's a story that's outlined in this  
15 letter that's up here on the Elmo, Government's  
16 Exhibit 756; right?

17 A. Yes, ma'am.

18 Q. So I want to talk to you a little bit  
19 about how you came up with the story. But let's  
20 start -- I'm going to ask you to read the letter.

21 MS. JACKS: May I approach?

22 THE COURT: You may.

23 BY MS. JACKS:

24 Q. So I'm going to ask you to read the letter  
25 out loud, Mr. Armenta.

1 A. Start now?

2 Q. Yes.

3 A. Okay. "This letter is to the lawyer of  
4 Jerry Montoya. I, Jerry Armenta, am writing this  
5 statement for Jerry Montoya on my own free will. I  
6 am not under the influence of any kind of drugs or  
7 medications. I am not promised any sort of gifts,  
8 money, or immunity, nor am I being threatened to  
9 write this statement. On March 7, 2014, an incident  
10 occurred at SNMCF that ultimately led to the  
11 untimely death of Mr. Javier Molina. That day Jerry  
12 Montoya and I were promised drugs by inmate Timothy  
13 Martinez. After 5:00 p.m. count cleared, we were  
14 invited to Mr. Martinez' -- by Mr. Martinez to go  
15 into room 105 in housing unit 1-A, B pod to shoot up  
16 a drug known as Suboxone. Jerry Montoya and I were  
17 invited, and then entered the room and were greeted  
18 by Timothy Martinez with a paper of the drug, which  
19 he gave one each to us, a paper which is wrapped in  
20 plastic. After the transaction, I asked to then use  
21 the syringe so I could shoot up. I was immediately  
22 answered with a 'Fuck no' and a 'Fuck you' by  
23 Mr. Javier Molina. We then began exchanging words,  
24 and he very hostilely continued to disrespect me and  
25 threaten the lives of myself and my precious little

1 daughter, which is mentally handicapped. We then  
2 got into a physical altercation, which Jerry Montoya  
3 did not know was going to happen. I didn't even  
4 know it was going to happen. I acted clearly out of  
5 instinct because I thought that it or my life was in  
6 clear and present danger. During this incident,  
7 Jerry Montoya did not attack Mr. Javier Molina, nor  
8 was he ever in possession of a shank. The incident  
9 in the room was between myself and the deceased.  
10 Jerry Montoya nor anyone else have any involvement  
11 with the incident that happened in room 105 B pod on  
12 the date of March 7, 2014. I swear that this  
13 written statement is true and honest to the written  
14 facts to the best of my knowledge and recollection  
15 of the actions of that day. I will swear to this  
16 written statement in open court and under oath.  
17 Respectfully submitted by myself, Jerry Armenta."

18 Q. Okay. Thank you, Mr. Armenta. I'm going  
19 to put that up on the screen. I want to ask you a  
20 few questions about this story and how you came up  
21 with it. So let's just start by -- I think you told  
22 us that you had some input or that somebody came up  
23 with the story and then you discussed it with them;  
24 is that right?

25 A. Yes.

1 Q. So who came up with the general story  
2 line?

3 A. Well, not one person came up with the one  
4 story. Most of this story was -- the most part  
5 where I used the -- my daughter thing, about me and  
6 him getting into a fight, and him saying things  
7 about my daughter -- that was my idea. Because I  
8 remembered how he used to like to talk about Down  
9 Syndrome and retarded kids and stuff like that. So  
10 that was my input on the story.

11 Q. And the reason that you added that detail  
12 to the story was because you thought it would give  
13 it more credibility?

14 A. Yes.

15 Q. It would make it seem true?

16 A. Yes, with other inmates in the pod, in  
17 case they were called to witness or something like  
18 that.

19 Q. So that was a deliberate effort on your  
20 part to not just tell a lie, but to make the lie  
21 seem credible?

22 A. Yes, ma'am.

23 Q. Now, this morning you testified, I think,  
24 that it was Mario Rodriguez that came up with the  
25 idea about this letter?

1           A.    No, he came up with the idea. And he was  
2 pushing me to take the blame for it, because he got  
3 charged. And he was upset, he was mad that he got  
4 charged.

5           Q.    So what he wanted to do was to have you  
6 tell a story that would not only help himself, but  
7 also Mr. Montoya?

8           A.    No, I came up with trying to cover for Mr.  
9 Montoya.

10          Q.    So what part of this story did Mr.  
11 Rodriguez come up with?

12          A.    None of it.

13          Q.    He just came up with the idea?

14          A.    He just wanted me to take the blame.

15          Q.    And was this something that you discussed  
16 with him?

17          A.    I had told him afterward, yeah, what I was  
18 going to say. And I'm sure Mr. Montoya showed him  
19 the letter before he sent it to his lawyer.

20          Q.    So you wrote the letter, and then you gave  
21 it to Mr. Montoya?

22          A.    Yes, ma'am.

23          Q.    And after you -- well, before you wrote  
24 the letter, did you discuss what should be in the  
25 letter with Mr. Rodriguez and Mr. Montoya?

1 A. No, with Mr. Montoya --

2 Q. Did you --

3 A. -- and Mr. Martinez.

4 Q. Okay. I realized I left him out. Did you  
5 discuss the content of what should be in the letter  
6 with Timothy Martinez?

7 A. Yes.

8 Q. And did he give you suggestions about what  
9 you should include in the letter?

10 A. Yes.

11 Q. So this letter that we see, Government  
12 756, is really a group effort?

13 A. Yes.

14 Q. And where did these conversations take  
15 place about what was going to be in the letter?

16 A. In the rec yard at the Santa Fe  
17 Penitentiary, at the North.

18 Q. And it took place in the rec yard while  
19 you were pending your state charges?

20 A. Yes, ma'am.

21 Q. And how many weeks -- is January 3 the  
22 date that you actually wrote the letter?

23 A. Yes.

24 Q. So that date on there is not a lie?

25 A. No.

1 Q. That's correct?

2 A. Yes. We were --

3 Q. How many weeks did it take for you to come  
4 up -- for you guys to come up with what was going to  
5 be put in this letter?

6 A. Quite a few, a couple months.

7 Q. So you thought about it for some period of  
8 time?

9 A. Yes.

10 Q. And at the time that you wrote this  
11 letter, had you had access to the discovery in the  
12 state case?

13 A. I had not received my discovery yet.

14 Q. Had you had access to -- had you been  
15 shown the video?

16 A. No.

17 Q. So I want to go through -- let me just go  
18 back for a second. What you were doing is -- were  
19 you trying to cover for what the Government's or the  
20 State's case might be against you?

21 A. Yes.

22 Q. And make sure that you covered all the  
23 details that you thought they might have in their  
24 case against you, Mr. Montoya, and Mr. Rodriguez?

25 A. Yes, ma'am.



1 Q. Okay. So let's look at the very  
2 beginning. The first part you say that -- wait a  
3 second, I want to go back for a second. After you  
4 wrote the letter, did you give it to Jerry Montoya  
5 or did you mail it to his lawyer?

6 A. I gave it to Jerry Montoya.

7 Q. And the idea was then that Jerry would  
8 give that to his lawyer and --

9 A. Yes.

10 Q. -- that his lawyer would make some sort of  
11 effort to get you to potentially be a witness in his  
12 case?

13 A. Yes.

14 Q. The first part of the letter where you  
15 say, "I, Jerry Armenta, am writing this for Jerry  
16 Montoya on my own free will," was that true?

17 A. No.

18 Q. So the letter starts off with a lie?

19 A. Yes.

20 Q. It wasn't under your free will because  
21 why?

22 A. Because Mr. Rodriguez was pushing to make  
23 me take the blame.

24 Q. And was there something more than pushing  
25 that made this letter writing against your will? I

1 mean, were there threats?

2 A. No, not really; like, there wasn't a gun  
3 to my head or anything. But, you know, when people  
4 like that tell you that you better do something, you  
5 do it.

6 Q. "People like that," you mean people like  
7 Mario Rodriguez?

8 A. Right, Mario Rodriguez; people that have  
9 been in the SNM for a long time, and that are  
10 violent.

11 Q. Were you concerned that Mr. Rodriguez  
12 would act violently toward you if you didn't write  
13 the letter?

14 A. Yes, ma'am.

15 Q. The next sentence that you're "not under  
16 the influence of drugs or medications," was that  
17 true?

18 A. That's true.

19 Q. And was the sentence after that, "I'm not  
20 promised any sort of gifts, money, immunity" -- no,  
21 let's just stop there. "Gifts, money, or immunity."  
22 Was that part true, that you weren't being promised  
23 any gifts, money, or immunity?

24 A. That's true.

25 Q. Then the second part of that sentence,

1 "nor am I being threatened to write this statement"?

2 A. That is not true.

3 Q. And apart from the threats that we just  
4 discussed from Mario Rodriguez, were there other  
5 threats or are those the only threats?

6 A. Those are the only threats from Mario  
7 Rodriguez on the letter.

8 Q. Now, the wording of the next paragraph,  
9 the first part of the next paragraph, "On March 7,  
10 2014, an incident occurred at Southern New Mexico  
11 Correctional Facility that ultimately led to the  
12 untimely death of Mr. Javier Molina." Who came up  
13 with that?

14 A. I just wrote it. It just came out of my  
15 head when I was writing the letter.

16 Q. And that's true; right?

17 A. Yes.

18 Q. There was an incident?

19 A. Yes, ma'am.

20 Q. It's kind of trying to put it in a really  
21 delicate way, isn't it?

22 A. Yes, ma'am.

23 Q. I mean, you didn't write: "On March 7,  
24 2014, I stabbed Javier Molina to death."

25 A. No.

1 Q. The next part of the letter about you  
2 discussed the drugs, that Timothy Martinez promised  
3 you drugs and invited you to go into a particular  
4 room, a particular cell in blue pod?

5 A. Yes.

6 Q. Which is Mr. Molina's cell; right?

7 A. Yes.

8 Q. And is that part of the letter true?

9 A. No.

10 Q. What about that is false?

11 A. The whole thing. I wasn't promised to go  
12 get in there to get drugs at all.

13 Q. And so who came up with that lie?

14 A. That was Timothy's.

15 Q. Timothy's lie?

16 A. Yes.

17 Q. And what was the purpose behind that lie,  
18 if you know?

19 A. I believe it was that -- because he was  
20 already -- him, Javier, and Mario Rodriguez were  
21 going in the room to do Suboxone. So he just said,  
22 "Well, we'll still use that, but we'll say that you  
23 guys were invited, too."

24 Q. And did Timothy Martinez want some sort of  
25 explanation, some sort of innocent explanation for

1 why he was in Javier Molina's room at the time that  
2 he was killed, or just before he was killed?

3 A. Say that again.

4 Q. Did Timothy Martinez -- was he looking for  
5 you to cover his potential criminal liability in  
6 some way?

7 A. He wasn't charged, so there was really no  
8 threat towards him.

9 Q. But he wasn't charged at the time, but he  
10 was in the room right before you guys stabbed  
11 Mr. Molina; right?

12 A. Yes, ma'am.

13 Q. And he had actually choked Mr. Molina?

14 A. Yes, ma'am.

15 Q. And so even though he wasn't charged, he  
16 was concerned that he might be charged; right?

17 A. Yeah.

18 Q. So was the point of this lie about going  
19 up to Javier Molina's room to use drugs -- was that  
20 to maybe help Timothy Martinez's story, so he can  
21 have support for why he was up in Mr. Molina's room?

22 A. Yes, ma'am.

23 Q. Kind of corroborates what he wants to use  
24 as his explanation; right?

25 A. He was doing up there in the first place,

1 yes.

2 THE COURT: Ms. Jacks, would this be a  
3 good place for us to take our afternoon break?

4 MS. JACKS: That's fine.

5 THE COURT: We'll be in recess for about  
6 15 minutes. All rise.

7 (The jury left the courtroom.)

8 THE COURT: I would like to have the  
9 Government prepare a subpoena for Jason Duff (sic)  
10 over at Dona Ana County Detention Center.

11 THE CLERK: Duran.

12 THE COURT: Jason Duran. And let's have  
13 him come over and testify as to whether Mr. Perez is  
14 taking his insulin or not.

15 MS. ARMIJO: And Your Honor, if he agrees  
16 to come over without a subpoena, is that fine?

17 THE COURT: That's fine. Just as long as  
18 he comes. I've had some indication that he needs a  
19 subpoena.

20 MS. ARMIJO: We'll work on it.

21 THE COURT: So if you'll prepare and get  
22 it issued.

23 MR. VILLA: Your Honor, we would ask that  
24 he bring the medication administration records or  
25 whatever logs they have in connection with that.

1 THE COURT: That's fine. We'll be in  
2 recess for about 15 minutes.

3 (The Court stood in recess.)

4 THE COURT: All right. We'll go on the  
5 record. Dr. Einig from the Memorial Hospital is  
6 going to call in at 4:45. So when that occurs,  
7 I'll, of course, excuse the jury.

8 (The jury entered the courtroom.)

9 THE COURT: All right. I may have to let  
10 y'all go back in. I'm going to take a call here in  
11 a few minutes. But we'll see if we can get some  
12 work here this afternoon before this occurs.

13 Mr. Armenta, I'll remind you you're still  
14 under oath.

15 Ms. Jacks.

16 MS. JACKS: We will forge ahead, Your  
17 Honor.

18 BY MS. JACKS:

19 Q. Mr. Armenta, before the break I was asking  
20 you about this letter, Government's Exhibit 756.  
21 And I'm going to pick up where we left off.

22 A. Okay.

23 Q. So I want to move to the third paragraph  
24 of the letter that starts with, "Jerry Montoya and I  
25 were invited and then entered the room, and were

1 greeted by Timothy Martinez with a paper of the  
2 drug, which he gave one each to us." And then you  
3 define what paper is. "Paper is drugs wrapped in  
4 plastic."

5 A. Yes.

6 Q. Okay. That's true. Paper is drugs  
7 wrapped in plastic; right?

8 A. Yes.

9 Q. But is the sentence that precedes it -- is  
10 that true?

11 A. No, ma'am, it's not.

12 Q. And tell me what the purpose of that lie  
13 was, and who came up with it.

14 A. That was partly Timothy Martinez' and  
15 myself.

16 Q. And what is the purpose of it? I guess it  
17 sort of moves the story forward?

18 A. For the reason why me and Jerry Montoya  
19 went to his room, Javier's room.

20 Q. And I guess you have to have drugs before  
21 you can get into a fight over the syringe; right?

22 A. Well, in order to use a syringe, yes,  
23 you've got to have something. And most times you  
24 have to have something for the person that owns the  
25 syringe, which we didn't.



1 Q. Okay. Well, now, you're talking, like, in  
2 a general prison situation; right? Like what you're  
3 saying is, in prison, if a guy has got a syringe,  
4 you bring the drugs and you gave him some of the  
5 drugs?

6 A. Yes.

7 Q. As a courtesy for him letting you use the  
8 syringe?

9 A. Yes, ma'am.

10 Q. That's prison culture; right?

11 A. Yeah.

12 Q. That's how things run in prison?

13 A. Yes.

14 Q. But specifically, I'm asking you: Why was  
15 that lie included in this letter? And I guess what  
16 I'm suggesting to you, or what -- in my mind, it  
17 seems like you have to have the drugs before you can  
18 get into a fight over the syringe; right?

19 A. Well, no, you don't have to have drugs to  
20 get into a fight over a syringe.

21 Q. So what was the purpose of including that  
22 section of the letter?

23 A. So that way, they would see that me and  
24 Mr. Montoya went into the room, and that was the  
25 reason why, because we were invited in to receive

1 drugs.

2 Q. So it covers the -- what you expected the  
3 video to show was you guys went into the room;  
4 that's an explanation for that?

5 A. Yes.

6 Q. Okay. So let's move on to the next  
7 sentence after that transaction. "I asked to then  
8 use the syringe so I could shoot up. I was  
9 immediately answered with a 'Fuck no' and 'Fuck you'  
10 by Mr. Javier Molina." Was that the truth?

11 A. No.

12 Q. So who came up with that lie?

13 A. I did.

14 Q. And what was the purpose of putting that  
15 lie in this letter?

16 A. So that way, it would start the story  
17 about me and him had an altercation.

18 Q. And you wanted to have an altercation,  
19 because you wanted to leave it -- or you wanted to  
20 at least have some argument that the murder wasn't  
21 planned, but that it was spontaneous?

22 A. Yes, ma'am.

23 Q. And that it was a fight?

24 A. Yes.

25 Q. And that it was a fight that was started

1 by the guy that ended up dead?

2 A. Yes, ma'am.

3 Q. The next sentence, "We then began  
4 exchanging words, and he very hostilely continued to  
5 disrespect me and threaten the lives of myself and  
6 my precious little daughter is mentally  
7 handicapped." Okay. So is that -- was that the  
8 truth?

9 A. No.

10 Q. And who came up with that lie?

11 A. I did.

12 Q. You did?

13 A. Yes, ma'am.

14 Q. And what was the purpose or how did that  
15 lie fit into this plan?

16 A. It gave a reason why I acted so rash.

17 Q. And the reason was that he was hostile and  
18 was disrespecting you, and then that escalated into  
19 threats; right?

20 A. Yes.

21 Q. And you made that up?

22 A. Yes.

23 Q. That didn't happen?

24 A. No.

25 Q. And you made that up to try to help

1 yourself?

2 A. Yes.

3 Q. And it escalated into threats against you;  
4 right?

5 A. Yes, ma'am.

6 Q. And threats against your --

7 A. Daughter.

8 Q. -- disabled daughter?

9 A. Yes.

10 Q. And I think you told us you decided to put  
11 the disabled daughter thing in there; right?

12 A. Yes.

13 Q. To give it some credibility, and to make  
14 it -- that you thought maybe other people could come  
15 and say, "Yes, Molina was always talking about  
16 Armenta's disabled daughter"?

17 A. Not to my daughter specifically, just Down  
18 Syndrome and handicapped, retarded children in  
19 general.

20 Q. So that was something he regularly did,  
21 and you thought you'd have witnesses that could  
22 corroborate that part of the story?

23 A. Yes, ma'am.

24 Q. And I'm not sure if you meant to write --  
25 the way that it's written, the way that that

1 sentence is written, it says, "and threaten the  
2 lives of myself and my precious little daughter is  
3 mentally handicapped." Did you mean that sentence  
4 to communicate that he threatened your life and the  
5 life of your mentally disabled daughter?

6 A. Not like her life physically, but he was  
7 just talking about her bad, in a bad way.

8 Q. The next sentence, "We then got into a  
9 physical altercation which Jerry Montoya did not  
10 know what was going to happen." Okay, was that the  
11 truth?

12 A. No.

13 Q. And who came up with that lie?

14 A. I did.

15 Q. And can you tell me the purpose of that  
16 lie?

17 A. So that Mr. Jerry Montoya, when it was  
18 time for him to be in court, he would not look  
19 guilty. He didn't know anything about what was  
20 going on.

21 Q. It was to try to negate the idea that you  
22 guys had planned to stab Molina prior to entering  
23 the room?

24 A. Yes.

25 Q. So it was meant to communicate that I,

1 meaning you, acted rashly, acted out of anger, and  
2 Montoya didn't know what was up?

3 A. Yes.

4 Q. "I didn't even know it was going to  
5 happen." That's the next sentence. Was that the  
6 truth?

7 A. No.

8 Q. And who came up with that lie?

9 A. I did.

10 Q. And tell me the purpose of that lie.

11 A. Because I didn't go in there with  
12 intentions to hurt Mr. Molina. It just was a  
13 spontaneous reaction. And I didn't even know what  
14 was going to come of what happened in the room.

15 Q. So that goes back to the idea that this  
16 letter is intended to help you as well as Mr.  
17 Rodriguez, Mr. Montoya, and Mr. Martinez?

18 A. It's intended to help all parties.

19 Q. "I acted clearly out of instinct for I  
20 felt that it or my life was in clear and present  
21 danger." That's the next sentence. So was that the  
22 truth?

23 A. No.

24 Q. Who came up with that lie?

25 A. I did.

1 Q. And what was the purpose of that lie?

2 A. So that I had a reason to react, that was  
3 my reason to react the way I did.

4 Q. And that would hopefully work to your  
5 benefit, in helping you get some reduced crime  
6 rather than murder?

7 A. Yes.

8 Q. Now, the next paragraph, first sentence,  
9 you say, "During this incident, Jerry Montoya did  
10 not attack Mr. Javier Molina, or was he ever in  
11 possession of a shank." Is that the truth?

12 A. No, it's not.

13 Q. And so who came up with that lie?

14 A. I did.

15 Q. Okay. Did you discuss it with Jerry  
16 Montoya?

17 A. Yes.

18 Q. Did you discuss it with Mario Rodriguez?

19 A. No.

20 Q. Did you discuss it with Timothy Martinez?

21 A. Yes.

22 Q. So it was you, with help from Timothy  
23 Martinez and Jerry Montoya?

24 A. Yes.

25 Q. And what was the purpose of that lie?

1           A.     The purpose of that lie was so that the  
2 judge or the Court would believe that Mr. Montoya  
3 didn't have anything on him.

4           Q.     So that it would imply, I guess, that the  
5 only person that stabbed Mr. Molina was you?

6           A.     Yes.

7           Q.     And Jerry Montoya didn't even have a  
8 weapon?

9           A.     Yes.

10          Q.     Okay. The next sentence, "The incident in  
11 the room was between myself and the deceased"?

12          A.     That was my lie.

13          Q.     And what was the purpose of that?

14          A.     I guess there is a word missing, but yeah,  
15 I wrote that because the incident that did happen in  
16 the room was between me and Mr. Molina, not anyone  
17 else.

18          Q.     And that lie is meant to try to get  
19 everybody else out of it?

20          A.     Yes.

21          Q.     Mr. Rodriguez, Mr. Martinez, and Mr.  
22 Montoya?

23          A.     Yes.

24          Q.     And did you discuss that sentence with all  
25 of the people that -- did you discuss that sentence



1 with Mr. Rodriguez, Mr. Martinez, and Mr. Montoya?

2 A. I didn't discuss none of this letter with  
3 Mr. Rodriguez. The only conversation that we had  
4 was when he told me that I needed to take the blame  
5 for getting him charged.

6 Q. Okay. So that's the only input he really  
7 had?

8 A. Yes.

9 Q. And then the details of what went into  
10 this letter were cooked up between you, Mr. Montoya,  
11 and Mr. Martinez?

12 A. Yes.

13 Q. Okay. Before you gave the letter to Mr.  
14 Montoya to give to his lawyer, did you let Mr.  
15 Rodriguez review it?

16 A. No.

17 Q. Did you tell him what you had put in it,  
18 that you put a sentence in there that said "The  
19 incident in the room was between myself and the  
20 deceased"?

21 A. Yeah, I gave him a little rundown of a few  
22 of the sentences that I said, what it said,  
23 generally what it was.

24 Q. And the next sentence is along those same  
25 lines: "Jerry Montoya nor anyone else have any

1 involvement with the incident that happened in room  
2 105, B pod, on the day of March 7, 2014."

3 A. Yes, ma'am.

4 Q. Just communicating the same thing?

5 A. Yes, ma'am.

6 Q. But specifically naming Jerry Montoya?

7 A. Yes, because he was the only other charged  
8 at the time.

9 Q. So is it fair to say that this letter is a  
10 collaboration between you, Timothy Martinez, and  
11 Jerry Montoya?

12 A. Yes.

13 Q. A collaborative effort?

14 A. Yes.

15 Q. And I think you said it took months to  
16 come up with this?

17 A. Yes.

18 Q. So it was something that you worked on for  
19 a long period of time?

20 A. We discussed it a few times.

21 Q. And something that you thought about quite  
22 a bit before you actually decided what to write?

23 A. Yes.

24 MR. JEWKES: Your Honor, may we please ask  
25 the witness to speak up?

1 THE COURT: If you'll just try to be a  
2 little louder, Mr. Armenta.

3 THE WITNESS: Okay. Sorry about that.

4 BY MS. JACKS:

5 Q. Now, then, we had the very last paragraph,  
6 and this is where you say that, "I swear that this  
7 written statement is true and honest to the written  
8 facts to the best of my knowledge."

9 Let me just stop there. Was that the  
10 truth?

11 A. No.

12 Q. Who came up with that lie?

13 A. I put up the whole paragraph. That's  
14 mine.

15 Q. And why did you put that in there?

16 A. So that way it would be believable.

17 Q. So that if somebody read this, and they  
18 see that --

19 THE COURT: Ms. Jacks, I need to take this  
20 call. So --

21 MS. JACKS: Fine.

22 THE COURT: We'll be in recess for a few  
23 minutes. All rise.

24 (The jury left the courtroom.)

25 THE COURT: All right. Be seated.

1 MR. VILLA: Your Honor, could we ask that  
2 the witness be excused for this?

3 THE COURT: Yes. Why don't you take the  
4 witness out as well?

5 MS. ARMIJO: Your Honor, I know that the  
6 doctor is calling. I wanted to let you know that  
7 we've been in contact -- Mr. Duran has accepted --  
8 it's more his company has accepted the subpoena. He  
9 has already left for the day. And by the time he  
10 got back to the office to get the medical records,  
11 to come here, it wouldn't be till 6:00, which he's  
12 willing to do.

13 THE COURT: Let's take the doctor here.  
14 He's on borrowed time here.

15 MR. VILLA: For purposes of this hearing,  
16 could we ask to publicly excuse -- and be sealed  
17 since we'll be talking about Mr. Perez' medical  
18 history and medical information.

19 THE COURT: Objection from anybody on  
20 that?

21 MS. ARMIJO: Your Honor, we never agree to  
22 a sealed courtroom without the permission from the  
23 Attorney General's Office. So that's our position.

24 THE COURT: Let's have the visitors step  
25 out, since we're talking about medical here.

1 MR. MICKENDROW: Your Honor, after this  
2 issue is resolved, the Marshal Service will have to  
3 discuss another issue with the Court regarding  
4 another issue I was just made aware of.

5 THE COURT: All right. Let's see if we  
6 can get this call going here.

7 (Due to HIPAA privacy and confidentiality  
8 requirements, this portion of the transcript has  
9 been sealed.)

10 (The following proceedings were held in  
11 open court.)

12 THE COURT: All right. We'll go back on  
13 the record. Deputy Mickendrow, you have something?

14 MR. MICKENDROW: Yes, Your Honor. Your  
15 Honor, I was just made aware by one of my deputies  
16 that they observed a picture of Rudy Perez in the  
17 courtroom here on one of the laptops of the  
18 attorneys. I just need to remind the attorneys that  
19 the courtrooms are not allowed to have any  
20 photographic evidence taken in.

21 I was approached by one of the attorneys  
22 prior and asked if he could get a picture of Mr.  
23 Baca for his family, and I had to refuse that  
24 because of the rules of the Court. And I realize  
25 the attorneys for Mr. Perez are doing everything

1 they can to zealously protect their client, but  
2 photographs are not permitted whatsoever in the  
3 courtroom. And if we continue to see photographs  
4 being taken, we're going to have to bring it to  
5 either your attention or to the head judge's  
6 attention.

7 THE COURT: You can't take photographs?

8 MR. MICKENDROW: Not at all.

9 MR. VILLA: Judge, I took the photograph.  
10 And actually, I have it here, because I did want to  
11 make a record about the mask that Mr. Perez has been  
12 wearing the past week. We can mark it as a Court's  
13 exhibit.

14 THE COURT: Why don't you do this: Give  
15 it to Deputy Mickendrow. And Deputy, just keep it.

16 MR. VILLA: I'd like it to be part of the  
17 record, Judge.

18 THE COURT: Well, you can't take  
19 photographs. You're not going to create evidence in  
20 the courtroom. So give it to the deputy, and it  
21 will be kept there. If you want to complain about  
22 what I'm doing, you can. But that's a violation  
23 of -- way up above me. You can't take pictures in  
24 the courtroom. And it requires court orders. So  
25 take the photograph and keep it. Don't lose it.

1 All right?

2 MR. MICKENDROW: Judge, if we could  
3 request that all photographs taken be deleted by  
4 counsel.

5 THE COURT: You got it in a way that --

6 MR. VILLA: It's on my phone. I'll delete  
7 it, Judge.

8 THE COURT: All right.

9 We just talked to the doctor. The  
10 attorneys were able to talk to him, and we'll seal  
11 that portion of it. If it's needed down the road,  
12 then it will be available.

13 All right. All rise.

14 (The jury entered the courtroom.)

15 THE COURT: All right. Everyone be  
16 seated.

17 All right. Mr. Armenta, I'll remind you  
18 you're still under oath.

19 Ms. Jacks, if you wish to continue your  
20 cross-examination of Mr. Armenta, you may do so at  
21 this time.

22 MS. JACKS: Thank you. I will.

23 CROSS-EXAMINATION

24 BY MS. JACKS:

25 Q. Mr. Armenta, before we were interrupted,

1 we were talking about the last paragraph of this  
2 letter which is Government's Exhibit 756. So I want  
3 to -- I guess we were at the point where I was  
4 asking you, I think, about what was the purpose of  
5 putting in there that you're swearing that "the  
6 statement is true and honest to the best of my  
7 knowledge," when that was actually false?

8 A. So that way it would be believable.

9 Q. So I think where I was going before the  
10 recess was that you're thinking about how somebody  
11 else might react to this letter?

12 A. Yes.

13 Q. And you're thinking that if you put in  
14 there that "it's true and honest to the best of my  
15 knowledge," that that sounds like something that  
16 you're almost attesting to under oath; right?

17 A. Yes.

18 Q. And so you're trying to give the reader, I  
19 guess, a false sense of comfort that the statement  
20 is actually true?

21 A. Yes. I'm trying to make it look as pretty  
22 as I can.

23 Q. The next part of that paragraph -- oh, I  
24 didn't read that whole sentence. So "I swear that  
25 this written statement is true and honest to the



1 written facts to the best of my knowledge and  
2 recollection of the actions on that day."

3 So the discussion we just had applies to  
4 that whole sentence; right?

5 A. Yes, ma'am.

6 Q. And then you put, "I will swear to this  
7 written statement in open court and under oath."

8 A. Yes, ma'am.

9 Q. And basically -- well, were you prepared  
10 to swear to the contents of this statement in court  
11 and under oath?

12 A. I was.

13 Q. And you understand that the oath you take  
14 when you're sitting on the witness stand is an oath  
15 to tell the truth?

16 A. Yes, ma'am.

17 Q. Punishable by penalty of perjury?

18 A. Yes, ma'am.

19 Q. So you included this in the letter even  
20 though the letter was full of lies; right?

21 A. Yes.

22 Q. And you included it -- why did you include  
23 that particular sentence, that you would swear to it  
24 in court?

25 A. So that they would believe me and I could

1 get Jerry Montoya off, and I would take the blame  
2 and I'd get the full blame or whatever.

3 Q. And you'd get a lesser charge?

4 A. Well, if that's what it came down to,  
5 yeah.

6 Q. And Mr. Rodriguez and Mr. Montoya and Mr.  
7 Martinez would all go home?

8 A. Yes.

9 Q. Now, with respect to that -- swearing,  
10 that whole paragraph about swearing that it's true  
11 and honest and saying that you would take an oath to  
12 tell the truth and recite this litany of lies, whose  
13 idea was it to put that in the letter?

14 A. Mine. I wrote it.

15 Q. It was your --

16 A. I wrote the letter. Most of what's on the  
17 letter was written by me.

18 Q. It's all in your handwriting; right?

19 A. Yes.

20 Q. But you collaborated with other people --

21 A. Yes.

22 Q. -- in terms of the content of the letter?

23 A. Yes.

24 Q. And so what I'm asking is, I guess, who  
25 did you talk with about -- with regard to making

1 this sort of attestation that this is true and  
2 saying, "I'll take an oath to tell the truth and  
3 repeat this in court"?

4 A. Nobody. I just put that.

5 Q. So you didn't discuss that aspect of the  
6 letter with Mr. Montoya or Mr. Rodriguez or Mr.  
7 Martinez?

8 A. No.

9 Q. Once this letter was done, once you wrote  
10 it, you gave to it Mr. Montoya?

11 A. Yes, ma'am.

12 Q. And at some point, did the letter have its  
13 intended effect? Did you find out that Mr.  
14 Montoya's lawyer wanted to speak with you?

15 A. Yes. A few months later, I was told that  
16 his attorney was putting some kind of motion in the  
17 court to have me transported to Dona Ana County  
18 Detention Center so I could be interviewed by his  
19 attorney.

20 Q. And that would be to be interviewed and  
21 then potentially to testify to these false facts in  
22 a trial?

23 A. Yes.

24 Q. So I want to move on. Because at some  
25 point after you sent this letter, you came up

1 with -- or your intent changed, right, and you came  
2 up with a different story?

3 A. I came up with the truth, yes.

4 Q. Well, what you say is the truth; right?

5 MR. CASTELLANO: Objection, Your Honor.  
6 Argumentative.

7 THE COURT: Don't argue with the witness.  
8 Just ask questions.

9 BY MS. JACKS:

10 Q. Mr. Armenta, you said that Government's  
11 Exhibit 756 was the truth?

12 A. Yeah.

13 Q. And you said that you would come to court  
14 and take an oath to tell the truth, and sit in a  
15 witness stand, like you're sitting in now, and say  
16 that's the truth; right?

17 A. Yes, ma'am.

18 Q. And yet you just told us this Exhibit 756  
19 is full of lies?

20 A. I was just trying to be an honorable  
21 brother of the SNM, and trying to get them off.  
22 That's why I --

23 Q. The bottom line is that you very -- in  
24 this particular letter that you wrote, that's full  
25 of lies, you had no problem saying it was true;

1 right?

2 A. Yes.

3 Q. And you had no problem saying, "I'll come  
4 to court and say that"?

5 A. Right.

6 Q. And it wasn't just your lies; it was lies  
7 that you worked on and thought about and discussed  
8 with other people?

9 A. Yes, ma'am.

10 Q. I want to show you what's been marked  
11 Exhibit 757. And this is the next letter. This is  
12 the letter that you wrote sometime between the  
13 letter we just saw and the time that you debriefed  
14 with the United States Attorney's Office?

15 A. Yes.

16 Q. Do you know approximately when you wrote  
17 this letter?

18 A. Well, it would have to be after September  
19 1st, when I was interviewed by Mr. Montoya's  
20 attorney.

21 Q. And this was a letter to Jerry Montoya to  
22 tell him that there was a change of plans; is that  
23 right?

24 A. Yes.

25 Q. Can you read that letter on the screen?

1 Or do you want me to bring it up?

2 A. I can read it.

3 Q. Will you read it out loud, please? And  
4 I'll turn the page when you get to the bottom.

5 A. "Jerry, Number 1 stunna. By the time you  
6 receive this letter, you will already know what I  
7 did. I love you, bro, on the real. But I had to  
8 tell the truth about how it all went down, from you  
9 putting up your hands when Blue handed you your  
10 piece, to the threats on your life and when I told  
11 you try not to kill him."

12 Q. Can I stop you right there? Because I  
13 have a question. So in writing this letter, are you  
14 trying to communicate something to Mr. Montoya about  
15 what you told the DA?

16 A. No.

17 Q. Are you trying to communicate something to  
18 him about what you told the U.S. Attorney or other  
19 law enforcement?

20 A. No, ma'am.

21 Q. Is there a reason why you -- why the "I  
22 told you" is underlined, when you say, "I told you  
23 try not to kill him, just stab him in places where  
24 it won't hit anything vital to sustain life." Is  
25 there a reason "I told you" is underlined?

1 A. No, not to my knowledge. I do that a lot  
2 in my letters.

3 Q. Well, why do people underline things in  
4 writings?

5 A. Mostly to, like, make a point to the  
6 person to see it.

7 Q. Right, to sort of highlight that  
8 particular thing.

9 A. Yes.

10 Q. And the intended recipient of this letter  
11 was Jerry Montoya; right?

12 A. Yes, ma'am.

13 Q. So did you underline the "I told you" to  
14 highlight that to him and make sure that he focused  
15 on what it is that you're saying you told him?

16 A. I did it so he can remember.

17 Q. So that he could remember and say you told  
18 him that; right?

19 A. Yes.

20 Q. Because the purpose of this letter is  
21 trying to say, you know, maybe you should sign up to  
22 be a Government witness, too; right?

23 A. Possibly. I wanted him to get out of it.

24 Q. Right. And you wanted to communicate to  
25 him in some -- and you weren't in a position where

1 you could talk with him or meet with him on the  
2 yard; right?

3 A. I was in a different facility.

4 Q. You were separated. So you wanted to  
5 communicate to him or give him some information  
6 about what it was that you were then telling law  
7 enforcement; right?

8 A. I just told him what I was planning on  
9 doing.

10 Q. Okay. Did you also -- just before that, I  
11 think you said, "I told" -- let me just go back.  
12 "But I had to tell the truth about how it all went  
13 down. From you picking up your hands when Blue  
14 handed you your piece, to the threats of your life  
15 and mine"?

16 A. Yes.

17 Q. Was that sentence intended to communicate  
18 to Mr. Montoya that in your story that you were now  
19 telling law enforcement, you claimed that he picked  
20 up his hands and tried not to accept the shank from  
21 Blue prior to the Molina stabbing?

22 A. It wasn't about him accepting anything.  
23 He thought that Mario Rodriguez was going in there  
24 to stab him.

25 Q. But in this letter, are you trying to tell



1 Mr. Montoya --

2 A. No, I'm --

3 Q. -- that you're telling that fact to law  
4 enforcement?

5 A. Yeah, from the beginning, all the way to  
6 the end, so that he knows everything that I said.

7 Q. Right. So that is the point of this  
8 letter, to work in everything that you said so that  
9 he knows what the story is?

10 A. No, that way, he knows that I said  
11 everything from the beginning to the end of what  
12 happened that day, on March 7.

13 Q. I'm going to have you pick up from where  
14 we just ended. Why don't you start with the "I told  
15 you," start with the underlined portion?

16 A. "I told you try not to kill him. Just  
17 stab him in places where it won't hit anything vital  
18 to sustain life, all the way till our doors closed."

19 Q. May I stop you there, and ask you what  
20 that means?

21 A. "All the way till our doors closed," till  
22 the end of everything that happened that day. From  
23 the beginning to the end, like I said.

24 Q. So you can continue after "closed."

25 A. "Look, man, call me a pussy, a rat, a

1 punk. I don't give a fuck. I'm not going to let  
2 these sorry fucks define me and my next 15 to 20  
3 years. I am a dad first, and that means more to me  
4 than this fake ass onda. If you want, stay there,  
5 by all means, do what you do. But I know you. You  
6 want to make things better with you and your  
7 daughter, Terri, your grandma, and mom."

8 Q. Let me just stop you right there. When  
9 you refer to your daughter, Terri, grandma, and mom,  
10 are those people that Jerry Montoya talked to you  
11 about?

12 A. Yeah.

13 Q. Members of his family?

14 A. Yes, ma'am.

15 Q. And so what you're telling him is that  
16 you're doing what you're doing so that you can go  
17 back to being a dad; right?

18 A. Yes, ma'am.

19 Q. And so that he ought to think about  
20 getting back to his family, too?

21 A. Yeah, to do the right thing, to go home.

22 Q. And that was your state of mind when you  
23 wrote this letter that, if you said what the  
24 Government -- if you said what the Government wanted  
25 you to say, if you said that this was an SNM hit,

1 that you would go home, and that maybe Jerry would  
2 go home?

3 A. The Government didn't tell me what to say.  
4 This is what the truth is, what I told them.

5 Q. In this letter you're thinking that, if  
6 you are -- if you don't work with law enforcement,  
7 you're going to be facing 15 to 20 years?

8 A. Well, yeah, obviously, if you don't do the  
9 right thing, you're going to go down with them .

10 Q. Well, a murder carries a life sentence,  
11 doesn't it?

12 A. Yeah.

13 Q. So I'm just wondering why, at the time you  
14 wrote this letter, were you thinking that that was  
15 sort of what your exposure was, 15 to 20 years?

16 A. I just put it, 15 to 20 years. They're  
17 not going to control my next 15 to 20 years.

18 Q. So what you thought was that by becoming a  
19 witness for the Government, you would get something  
20 less than 15 to 20 years?

21 A. No.

22 Q. Oh, you never thought that?

23 A. No.

24 Q. I'm just not understanding the  
25 decision-making process. If you're going to get 15

1 to 20 years if you don't do anything, and just take  
2 what's coming, and you're going to get 15 to 20  
3 years if you're a Government witness, how do you  
4 choose to become a Government witness?

5 A. I knew I was going to get some time. I  
6 know I'm still going to get some time. I'm not  
7 going to get a life sentence.

8 Q. I'm not -- well, that's really up to Judge  
9 Browning; right?

10 A. Right.

11 Q. I mean, that's what you told us earlier  
12 today?

13 A. Yes, ma'am.

14 Q. So Judge Browning very easily could give  
15 you a life sentence?

16 A. Yes.

17 Q. But my point is, I guess, I'm asking --  
18 I'm not asking what your current state of mind is.  
19 I'm asking what your state of mind is at the time  
20 you wrote this letter.

21 A. I don't know. I was just trying to get  
22 him to do the right thing.

23 Q. But in terms of the punishment, you  
24 thought if you didn't become a Government witness,  
25 you were looking at 15 to 20 years. So you must

1 have thought that you were going to get less than  
2 that if you worked with the Government.

3 A. No. I said that probably, more likely,  
4 because I already just spoke to his attorney. And  
5 Mr. Dougherty was there. And I was expecting --  
6 hoping that I would get a deal.

7 Q. That's what I was asking. And so what was  
8 the deal that you were hoping to get?

9 A. Anything better than life.

10 Q. At that point, after the meeting with  
11 Mr. Dougherty, you ended up with a reduced charge of  
12 involuntary manslaughter, right, as part of the plea  
13 bargain?

14 A. Yeah, about three months later.

15 Q. And a sentence of 18 months in prison?

16 A. Yes.

17 Q. A year and a half?

18 A. Yes, ma'am.

19 Q. Less than what you did for your two counts  
20 of contributing to the delinquency of a minor?

21 A. Yes, ma'am.

22 Q. All right. Let's keep going. So we are  
23 just after Terri, grandma, and mom.

24 A. "Is this more important to you than them?  
25 They got us sick with the story we said or not we

1 were doing. That's why I had to make a move."

2 Q. Let me stop you there. So what does it  
3 mean you said "they got us sick with the story we  
4 said"?

5 A. That they knew we were lying.

6 Q. And are you referring to the story that  
7 was in the letter that we were looking at before,  
8 Exhibit 756?

9 A. Yes, ma'am.

10 Q. And "got us sick" means --

11 A. They got us.

12 Q. They really got us, like got us?

13 A. They got us. It's over. They got us.  
14 It's over. It's done.

15 Q. And then what was the other thing that you  
16 said? Oh, "they got us sick with the story we said  
17 or not. We're done. That's why I had to make a  
18 move."

19 A. Yes.

20 Q. And is that communicating to Mr. Montoya:  
21 I'm having to change things up because we got busted  
22 with the story we told?

23 A. I just -- that's my intention, was to tell  
24 them that the truth needs to come out, because the  
25 lie is not going to get us anywhere.

1 Q. Okay. Let's keep going starting with  
2 "Red."

3 A. "Red's on the level tambien. Fuck it,  
4 dude. It's my life, not the onda's."

5 Q. Let me stop you right there. What does  
6 that mean when you said "Red"?

7 A. "Red is on the level." That means that he  
8 had made a statement prior to my own.

9 Q. Okay. So in this part of the letter  
10 you're telling Jerry Montoya that Timothy Martinez  
11 has made some sort of statement?

12 A. Yes.

13 Q. And are you implying -- or is it meant to  
14 imply that he made some sort of statement that's  
15 incriminating against Jerry Montoya?

16 A. Yes, against me, Montoya, and the story  
17 that we fabricated.

18 Q. Okay. And how did you find -- at the time  
19 of this letter, how did you find out that Timothy  
20 Martinez had made a statement?

21 A. Because by that time, I had gotten my  
22 discovery from my attorney.

23 Q. And you knew that Timothy Martinez was  
24 saying things about you and Jerry?

25 A. Yes.

1 Q. Jerry Montoya?

2 A. Yes, ma'am.

3 THE COURT: Ms. Jacks, would this be a  
4 good place for us to call it a week?

5 MS. JACKS: That would be nice.

6 THE COURT: Let me give you these  
7 instructions. I refrained doing it this week, but  
8 before we take our weekend break, I want to remind  
9 you of a few things that are especially important.  
10 Until the trial is completed, you're not  
11 to discuss the case with anyone, whether it's  
12 members of trial, people involved in the trial, or  
13 anyone else, and that includes your fellow jurors.  
14 If anyone approaches and tries to discuss the trial  
15 with you, please let me know immediately.

16 Don't read or listen to any news reports  
17 of the trial. Again, don't go home and get on the  
18 internet for purposes of this case in any way.

19 And finally, remember that you must not  
20 talk about anything with any person who is involved  
21 in the trial, even if it doesn't have anything to do  
22 with the trial.

23 If you need to speak with me, give a note  
24 to one of the Court Security Officers, Ms.  
25 Standridge. I've kept my promise not to repeat



1 these all the time, but do keep them in mind every  
2 time we take a break.

3 I know a lot of you are traveling. I'm  
4 going to do a little bit of it myself. Wednesday  
5 was a big day in my family. My dad turned 84, but  
6 my son was defending his dissertation, and I'm proud  
7 to report that he defended it successfully. So I'm  
8 going to go back to Albuquerque and fly to New York  
9 and buy him a steak. He always goes to the most  
10 expensive restaurants. So if I'm broke on Monday,  
11 y'all may have to help me out.

12 But y'all have a safe trip. The weather  
13 looks good for me, so I expect it for you, as well.  
14 Y'all have a good weekend and get some rest. Thank  
15 you very much. All rise.

16 (The jury left the courtroom.)

17 THE COURT: If y'all will hang around just  
18 a second. There should be a clean set of jury  
19 instructions. I'm taking one with me this weekend.  
20 I'm getting close to having a set that I now need to  
21 integrate the RICO stuff, the VICAR stuff, so I'm  
22 working on that. We're getting there. And if  
23 you'll just wait a second, I'll make sure that my  
24 clerk, Ms. Standridge, gets those to you so you're  
25 not delayed.

1 MS. DUNCAN: Your Honor, would you  
2 admonish the witness, please?

3 THE COURT: Yes. Mr. Armenta, you're on  
4 the stand, so don't talk to anybody about your  
5 testimony. Okay? Don't talk to any other people in  
6 transport or in the detention facility or anything  
7 like that.

8 THE WITNESS: Yes, sir.

9 THE COURT: All right. Have a good  
10 weekend.

11 MR. CASTELLANO: Your Honor, while we're  
12 waiting, it appears as if the defense has the  
13 forensic results back from the tablets. And if so,  
14 we're asking for disclosure. Those were supposed to  
15 be disclosed once the forensic analysis was done.

16 THE COURT: Any problem with that?

17 MR. LOWRY: That's fine.

18 THE COURT: All right. Mr. Lowry says  
19 that will be fine, so he'll get that to you.

20 All right. Y'all have a good weekend.  
21 Get some rest. I'm going to go check on these jury  
22 instructions.

23 (The Court stood in recess.)  
24  
25

1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 4th day of February, 2019.

14  
15 \_\_\_\_\_  
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